

THE MYSORE CO-OPERATIVE SOCIETIES ACT, 1959.

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MYSORE ACT No. 11 OF 1959.

(First published in the Mysore Gazette on the Twentieth Day of August, 1959).

THE MYSORE CO-OPERATIVE SOCIETIES ACT, 1959.

(Received the assent of the President on the Eleventh Day of August, 1959).

An Act to consolidate and amend the laws relating to Co-operative Societies in the State of Mysore.

WHEREAS it is expedient to consolidate and amend the laws relating to co-operative societies in the State of Mysore ;

BE it enacted by the Mysore State Legislature in the Tenth Year of the Republic of India as follows :—

CHAPTER I.

PRELIMINARY.

1. Short title, extent and commencement.—(1) This Act may be called the Mysore Co-operative Societies Act, 1959.

(2) It extends to the whole of the State of Mysore.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) 'bye-laws' means the bye-laws registered or deemed to be registered under this Act and for the time being in force and includes a registered amendment of the bye-laws ;

(b) 'committee' means the governing body of a co-operative society, by whatever name called, to which the management of the affairs of the society is entrusted ;

(c) 'co-operative society' means a society registered or deemed to be registered under this Act ;

(d) 'co-operative society with limited liability' means a co-operative society in which the liability of its members, for the debts of the society in the event of its being wound up, is limited by its bye-laws—

- (i) to the amount, if any, unpaid on the shares respectively held by them ; or
- (ii) to such amount as they may, respectively, undertake to contribute to the assets of the society ;

(e) 'co-operative society with unlimited liability' means a co-operative society, the members of which are, in the event of its being wound up, jointly and severally liable for and in respect of all its obligations and to contribute to any deficit in the assets of the society ;

(f) 'member' means a person joining in the application for the registration of a co-operative society and a person admitted to membership after such registration in accordance with this Act, the rules and the bye-laws and includes a nominal and an associate member ;

(g) 'officer' means the President, Vice-President, Chairman, Vice-Chairman, Secretary, Manager, Treasurer, Liquidator, Administrator and includes a Member of Committee empowered to exercise any power or perform any function in regard to the business of a co-operative society, or any other person empowered under the rules or the bye-laws to give directions in regard to the business of a co-operative society ;

(h) 'prescribed' means prescribed by rules made under this Act ;

(i) 'Registrar' means a person appointed to perform the functions of the Registrar of Co-operative Societies under this Act, and includes any person appointed to assist the Registrar when exercising all or any of the powers of the Registrar ;

(j) 'rules' means the rules made under this Act ;

(k) 'Tribunal' means the Mysore Revenue Appellate Tribunal constituted under the Mysore Revenue Appellate Tribunal Act, 1957 ;

(l) references to any enactment or provision of law not in force in any Area of the State of Mysore shall be construed as references to the corresponding enactment or provision of law, if any, in force in that Area.

CHAPTER II.

REGISTRATION OF CO-OPERATIVE SOCIETIES.

3. Registrar.—(1) The State Government may appoint a person to be the Registrar of Co-operative Societies for the State and may appoint other persons to assist him.

(2) The State Government may, by general or special order, confer on any person appointed to assist the Registrar all or any of the powers of the Registrar under this Act.

(3) Every person appointed to assist the Registrar shall exercise the powers conferred on him under sub-section (2), subject to the general superintendence and control of the Registrar.

(4) Notwithstanding anything contained in this Act, matters relating to the audit of accounts of every co-operative society shall be subject to the supervision and control of the Registrar of Co-operative Societies for the State.

4. Societies which may be registered.—Subject to the provisions of this Act, a co-operative society which has as its objects the promotion of the economic interests of its members in accordance with co-operative principles, or a co-operative society established with the object of facilitating the operations of such a society, may be registered under this Act.

5. Registration with limited or unlimited liability.—(1) A co-operative society may be registered with or without limited liability:

Provided that the liability of a co-operative society of which any member is a co-operative society, shall be limited.

(2) The word 'limited' or its equivalent in any Indian language shall be the last word in the name of a co-operative society registered under this Act with limited liability.

6. Application for registration of co-operative societies.—(1) An application for the registration of a co-operative society shall be made to the Registrar in such form as may be prescribed; and the applicants shall furnish to him all such information about the society as he may require.

(2) Every such application shall conform to the following requirements, namely:—

(a) the application shall be accompanied by three copies of the proposed bye-laws of the co-operative society;

- (b) where all the applicants are individuals, the number of applicants shall not be less than ten ;
- (c) every one of the applicants who is an individual shall be above the age of eighteen years ;
- (d) where the objects of the co-operative society include the creation of funds to be lent to its members and where all the applicants are individuals, the applicants shall reside in the same village or town or in the same group of villages or belong to the same class or pursue the same occupation ;
- (e) the application shall be signed by every one of the applicants who is an individual and by a person duly authorised on behalf of any co-operative society which is an applicant.

7. Registration.—(1) If the Registrar is satisfied—

- (a) that the application complies with the provisions of this Act and the rules ;
- (b) that the objects of the proposed society are in accordance with section 4 ;
- (c) that the aims of the proposed society are inconsistent with the principles of social justice ;
- (d) that the proposed bye-laws are not contrary to the provisions of this Act and the rules ; and
- (e) that the proposed society complies with the requirements of sound business and has reasonable chances of success ;

the Registrar may register the co-operative society and its bye-laws.

(2) Where the Registrar refuses to register a co-operative society, he shall communicate the order of refusal together with the reasons therefor to such of the applicants as may be prescribed.

8. Registration certificate.—Where a co-operative society is registered under this Act, the Registrar shall issue a Certificate of Registration signed by him, which shall be conclusive evidence that the co-operative society therein mentioned is a co-operative society duly registered under this Act.

9. Co-operative societies to be bodies corporate.—The registration of a co-operative society shall render it a body corporate by the name under which it is registered having perpetual succession and a common seal, and with power to hold property, enter into contracts,

institute and defend suits and other legal proceedings and to do all things necessary for the purposes for which it was constituted.

10. Change of name of co-operative society.—(1) A co-operative society may, by an amendment of its bye-laws, change its name.

(2) Where a co-operative society changes its name, the Registrar shall enter the new name on the register of co-operative societies in the place of the former name and shall amend the certificate of registration accordingly.

(3) The change of name of a co-operative society shall not affect any rights or obligations of the co-operative society, or render defective any legal proceedings by or against it; and any legal proceedings which might have been continued or commenced by or against the society by its former name may be continued or commenced by its new name.

11. Change of liability.—(1) Subject to the provisions of this Act and the rules, a co-operative society may, by an amendment of its bye-laws, change the form or extent of its liability.

(2) When a co-operative society has passed a resolution to change the form or extent of its liability, it shall give notice thereof in writing to all its members and creditors and notwithstanding any bye-law or contract to the contrary, any member or creditor shall, during a period of one month from the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(3) Any member or creditor who does not exercise his option within the period specified in sub-section (2) shall be deemed to have assented to the change.

(4) An amendment of the bye-laws of a co-operative society changing the form or extent of its liability shall not be registered or take effect until either—

- (a) the assent thereto of all members and creditors has been, or deemed to have been, obtained; or
- (b) all claims of members and creditors who exercise the option referred to in sub-section (2) within the period specified therein have been met in full.

12. Amendment of bye-laws of a co-operative society.—(1) No amendment of any bye-law of a co-operative society shall be valid unless such amendment has been registered under this Act.

(2) Every proposal for such amendment shall be forwarded to the Registrar and if the Registrar is satisfied that the proposed amendment—

- (i) is not contrary to the provisions of this Act and the rules;
- (ii) does not conflict with co-operative principles;
- (iii) satisfies the requirements of sound business;
- (iv) will promote the economic interests of the members of the society; and
- (v) is not inconsistent with the principles of social justice; he may register the amendment.

(3) The Registrar shall forward to the society a copy of the registered amendment together with a certificate signed by him, and such certificate shall be conclusive evidence that the amendment has been duly registered.

(4) Where the Registrar refuses to register an amendment of the bye-laws of a co-operative society, he shall communicate the order of refusal, together with the reasons therefor, to the society.

13. When amendments of bye-laws come into force.—Subject to any appellate order under section 106, an amendment of the bye-laws of a co-operative society shall unless it is expressed to come into operation on a particular day, come into force on the day on which it is registered.

14. Amalgamation, transfer of assets and liabilities and division of co-operative societies.—(1) A co-operative society may, by a resolution passed by a two-thirds majority of the members present and voting at a general meeting of the society—

- (a) divide itself into two or more co-operative societies; or
- (b) transfer its assets and liabilities in whole or in part to any other co-operative society which by a like resolution agrees to such transfer.

(2) Any two or more co-operative societies may, by a resolution passed by a two-thirds majority of the members present and voting at a general meeting of each such society amalgamate themselves and form a new co-operative society.

(3) The resolution of a co-operative society under sub-section (1) or sub-section (2) shall contain all particulars of the transfer, division or amalgamation, as the case may be, and no such resolution shall have any effect unless approved by the Registrar.

(4) When a co-operative society has passed any such resolution, and it has been approved by the Registrar, the co-operative society shall give notice thereof in writing to all its creditors and such members of the society as did not vote in favour of the resolution and, notwithstanding any bye-laws or contract to the contrary, any creditor or any member to whom such notice is given shall during the period of one month from the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(5) Any member or creditor who does not exercise his option within the period specified in sub-section (4) and every member who has voted in favour of the resolution shall be deemed to have assented to the proposals contained in the resolution.

(6) A resolution passed by a co-operative society under this section shall not take effect until either—

- (a) the assent thereto of all the members and creditors has been, or deemed to have been, obtained under this section or ;
- (b) all claims of members and creditors who exercise the option referred to in sub-section (4) within the period specified therein, have been met in full.

(7) Where a resolution passed by a co-operative society under this section involves the transfer of any assets and liabilities, the resolution shall, notwithstanding anything contained in any law for the time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance.

15. Cancellation of registration certificates of co-operative societies in certain cases.—(1) Where the whole of the assets and liabilities of a co-operative society are transferred to another co-operative society in accordance with the provisions of section 14, the registration of the first mentioned co-operative society shall stand cancelled and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(2) Where two or more co-operative societies are amalgamated into a new co-operative society in accordance with the provisions of section 14, the registration of each of the amalgamating societies shall stand cancelled on the registration of the new society and each such society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(3) Where a co-operative society divides itself into two or more co-operative societies in accordance with the provisions of

section 14, the registration of that society shall stand cancelled on the registration of the new societies, and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

CHAPTER III.

MEMBERS OF CO-OPERATIVE SOCIETIES AND THEIR RIGHTS AND LIABILITIES.

16. Persons who may become members.—(1) No person shall be admitted as a member of a co-operative society except the following, namely,—

- (a) an individual competent to contract under section 11 of the Indian Contract Act, 1872 (Central Act IX of 1872).
- (b) any other co-operative society;
- (c) the State Government; and
- (d) the State Warehousing Corporation established under the Agricultural Produce (Development and Warehousing Corporations) Act 1956 (Central Act 28 of 1956), in the case of a co-operative society engaged in the storage or warehousing of agricultural produce.

(2) Where a person is refused admission as a member in a co-operative society, the decision refusing admission along with the reasons therefor shall be communicated by the society to that person within seven days from the date of the decision.

17. Disqualification for membership.—(1) No person shall be eligible for admission as a member of a co-operative society, if he,—

- (a) has applied to be adjudicated an insolvent or is an undischarged insolvent; or
- (b) has been sentenced for any offence, other than an offence of a political character or an offence not involving moral turpitude, such sentence not having been reversed or the offence pardoned and a period of five years has not elapsed from date of expiry of the sentence.

(2) If a member becomes subject to any of the disqualifications specified in sub-section (1), he shall be deemed to have ceased to be a member from the date when the disqualification was incurred.

(3) No individual being a member of a co-operative credit society, shall be eligible for admission as a member of any

other such society without the general or special sanction of the Registrar.

Explanation.—For purposes of this sub-section “co-operative credit society” means a co-operative society which lends or gives credit to its members whether in cash or in kind.

18. Nominal or associate members.—(1) Notwithstanding anything contained in section 16, a co-operative society may admit any individual as a nominal or associate member.

(2) A nominal member shall not be entitled to any share, in any form whatsoever, in the assets or profits of the society or to become an officer of the society.

(3) An associate member may hold shares but shall not be entitled to become an officer of the society.

(4) Save as provided in this section, a nominal or associate member shall have such privileges and rights of a member and be subject to such liabilities of a member, as may be specified in the bye-laws of the society.

19. Member not to exercise rights till due payment made.—No member of a co-operative society shall exercise the rights of a member unless he has made such payment to the society in respect of membership or has acquired such interest in the society, as may be specified in the bye-laws.

20. Votes of members.—Every member of a co-operative society shall have one vote in the affairs of the society :

Provided that,—

(a) a nominal or associate member shall not have the right of vote ;

(b) where the State Government is a member of the co-operative society, each person nominated by the State Government on the Committee of the co-operative society shall have one vote.

21. Manner of exercising vote.—(1) Every member of a co-operative society shall exercise his vote in person and no member shall be permitted to vote by proxy.

(2) Notwithstanding anything contained in sub-section (1),—
(a) a co-operative society which is a member of another co-operative society may, subject to any rules made under this Act, appoint one of its members to vote on its behalf in the affairs of that other society ;

(b) where the State Warehousing Corporation is a member of a co-operative society, a person nominated by the Corporation may vote on its behalf in the affairs of the society.

22. Restrictions on holding of shares.—In any co-operative society, no member other than the State Government, the State Warehousing Corporation or any other co-operative society, shall,—

(a) hold more than such portion of the total share capital of the society not exceeding one-fifth thereof, as may be prescribed ; or

(b) have or claim any interest in the shares of the society exceeding ten thousand rupees ;

whichever is less :

Provided that the State Government, may by notification in the official Gazette, specify in respect of any class of co-operative societies a higher maximum than one-fifth of the share capital or a higher amount than ten thousand rupees, as the case may be.

23. Restrictions on transfers of shares or interest.—(1) The transfer of a share or interest of a member in the capital of a co-operative society shall be subject to such conditions and restrictions as to the maximum holdings as are specified in section 22.

(2) No transfer by a member of his share or interest in a co-operative society shall be valid unless,—

(a) the member has held such share or interest for not less than one year ;

(b) the transfer is made to a member of the society ; and

(c) the transfer is approved by the Committee of the society.

24. Transfer of interest on death of member.—(1) On the death of a member of a co-operative society, the society shall transfer the share or interest of the deceased member—

(a) to the person or persons nominated in accordance with the rules and if the nomination subsists ; or

(b) if no person has been so nominated or the nomination does not subsist,

(i) where the share or interest of the deceased member does not exceed five hundred rupees, to such persons as may appear to the Committee to be the heirs or legal representatives of the deceased member, on the execution by such persons of an indemnity bond with such sureties as it may require ;

- (ii) where the share or interest of the deceased member exceeds five hundred rupees, to such person or persons as produce a succession certificate or other legal authority granted by a competent court of law :

Provided that such nominee, heir or legal representative as the case may be, is admitted as a member of the society :

Provided further that nothing in this sub-section shall prevent a minor or a person of unsound mind from acquiring by inheritance or otherwise the share or interest of a deceased member in a co-operative society.

(2) Notwithstanding anything contained in sub-section (1), any such nominee, heir or legal representative, as the case may be, may require the society to pay to him the value of the share or interest of the deceased member ascertained in accordance with the rules.

(3) A co-operative society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

(4) All transfers and payments made by a co-operative society in accordance with the provisions of this section shall be valid and effective against any demand made upon the society by any other person.

25. Liability of past member and estate of deceased member.—
(1) Subject to the provisions of sub-section (2), the liability of a past member or of the estate of a deceased member of a co-operative society for the debts of the society as they existed—

(a) in the case of a past member, on the date on which he ceased to be a member ; and

(b) in the case of a deceased member, on the date of his death, shall continue for a period of two years from such date.

(2) Where a co-operative society is ordered to be wound up under section 72, the liability of a past member or of the estate of a deceased member who ceased to be a member or died within two years immediately preceding the date of the order of winding up, shall continue until the entire liquidation proceedings are completed, but such liability shall extend only to the debts of the society as they existed on the date of his ceasing to be a member or death, as the case may be.

CHAPTER IV.

MANAGEMENT OF CO-OPERATIVE SOCIETIES.

26. Final authority in a co-operative society.—The final authority in a co-operative society shall vest in the general body of members :

* * * *

Provided * that nothing in this section shall affect any powers conferred on a committee or any officer of a co-operative society by the rules or the bye-laws.

27. Annual general meeting.—(1) A general meeting of a co-operative society shall be held once in a year, within a period of three months after the date fixed for making up its accounts for the year under the rules or bye-laws for the time being in force, for the purpose of—

- (a) approval of the programme of the activities of the society prepared by the committee for the ensuing year ;
- (b) election, if any, in the prescribed manner of the members of the committee other than nominated members ;
- (c) consideration of the annual report, the latest available audit report and the disposal of the net profits ; and
- (d) consideration of any other matter which may be brought forward in accordance with the bye-laws :

Provided that the Registrar may, by general or special order, extend the period for holding such meeting by a period not exceeding six months.

(2) If default is made in calling a general meeting in accordance with the provisions of sub-section (1), the Registrar may, by order, declare any officer or member of the committee whose duty it was to call such meeting and who without reasonable excuse failed to call such meeting, disqualified for being elected as and for being an officer or a member of the committee for such period not exceeding three years as may be specified in such order and if the officer is a servant of the society impose on him a fine not exceeding one hundred rupees ; and any such fine may be recovered in such manner as may be prescribed :

Provided that no order shall be made under this sub-section unless a reasonable opportunity to be heard is given to the person against whom the order is to be made.

28. Special general meeting.—(1) The committee of a co-operative society may, at any time, call a special general meeting of the society and shall call such meeting within one month after the receipt of a requisition in writing from the Registrar or from such number of members or a proportion of the total number of members, as may be prescribed.

(2) If a special general meeting of a co-operative society is not called in accordance with the requisition referred to in sub-section (1), the Registrar or any person authorised by him in this behalf, shall have the power to call such meeting and that meeting shall be deemed to be a meeting called by the committee and shall have power to transact all business which can be transacted at the annual general meeting under the bye-laws of the society and such other business as is specially mentioned in the requisition made by the Registrar.

29. Nominees of the Government on the Committee of a Co-operative Society.—(1) Where the State Government—

- (a) has subscribed to the share capital of a co-operative society, or
- (b) has assisted indirectly in the formation or augmentation of the share capital of a co-operative society as provided in Chapter VI, or
- (c) has guaranteed the repayment of principal and payment of interest on debentures issued by a co-operative society, or
- (d) has guaranteed the repayment of principal and payment of interest on loans and advances to a co-operative society,

the State Government or any authority specified by the State Government in this behalf, shall have the right to nominate not more than three members or one-third of the total number of members of the committee of the co-operative society, whichever is less.

(2) A member nominated on the committee of a co-operative society under sub-section (1), shall hold office during the pleasure of the State Government or the specified authority, as the case may be.

30. Supersession of Committee.—(1) If, in the opinion of the Registrar, the committee of any co-operative society persistently makes default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye-laws, or commits any act

which is prejudicial to the interests of the society or its members, or is otherwise not functioning properly, the Registrar may, after giving the committee an opportunity to state its objections, if any, by order in writing, remove the committee, and

- (a) appoint a new committee consisting of one or more members of the society in its place, or
- (b) appoint one or more Administrators who need not be members of the society,

to manage the affairs of the society for such period or periods not exceeding two years as may be specified by order of the Registrar; and after the period of two years, the Registrar may in accordance with the provisions of sub-section (2) by order extend such period from time to time, so that the aggregate period does not exceed four years.

(2) (a) If it appears to the Registrar that it is necessary or desirable in the interests of the co-operative society to continue the management of the affairs of such society by the committee or Administrators appointed under sub-section (1), for more than two years, he shall before the expiry of the period of two years, place before a meeting of the general body of the society, held in the prescribed manner, his proposal for such continuance along with the reasons therefor, and after ascertaining the views of the general body, the Registrar may if he considers it necessary or desirable, extend the period of two years by such period or periods not exceeding one year in the aggregate.

(b) If before the expiry of the period of three years referred to in clause (a), the general body of the co-operative society approves by a resolution passed by a majority of the members present and voting at a meeting of that body, the continuance beyond three years of the management of the affairs of such society by the Committee or Administrators appointed under sub-section (1), the Registrar may extend the period of three years by a further period of one year.

(3) The committee or Administrators so appointed shall, subject to the control of the Registrar and to such instructions as he may from time to time give, have power to exercise all or any of the functions of the committee or of any officer of the society and take all such action as may be required in the interests of the society.

(4) The committee or Administrators shall, at the expiry of its or their term of office, arrange for the constitution of a new committee in accordance with the bye-laws of the society.

(5) Before taking any action under sub-section (1) in respect of a co-operative society, the Registrar shall consult any financing institution to which it is indebted.

31. Securing possession of records, etc.—(1) If the committee of a co-operative society is reconstituted at a general meeting of the society or the committee of a co-operative society is removed by the Registrar under section 30 or if the society is ordered to be wound up under section 72, the outgoing members of the committee shall hand over charge of the records and property of the society to the new committee or the Administrators or the Liquidator, as the case may be.

(2) If the outgoing members of the committee do not hand over, or in any manner obstruct the taking charge of the records and property of the society by the new committee or the Administrators or the Liquidator, then, without prejudice to any other action, the new committee or the Administrators or the Liquidator may apply to the Magistrate, within whose jurisdiction the society functions, for securing the records and property of the society. On receipt of the application, the Magistrate may, by a warrant authorise any police officer, not below the rank of Sub-Inspector, to enter and search any place where the records and the property are kept or are believed to be kept and to seize such records and property; and the records and property so seized shall be handed over to the new committee or Administrators of the society or the Liquidator, as the case may be.

CHAPTER V.

PRIVILEGES OF CO-OPERATIVE SOCIETIES.

32. First charge of co-operative society on certain assets.—(1) Notwithstanding anything contained in any law for the time being in force, but subject to any prior claim of the Government in respect of land revenue or any money recoverable as land revenue, any debt or outstanding demand owing to a co-operative society by any member or past member or deceased member shall be a first charge upon the crops and other agricultural produce, cattle, fodder for cattle, agricultural or industrial implements or machinery, raw materials for manufacture and any finished products manufactured from such raw materials, belonging to such member, past member or forming part of the estate of the deceased member, as the case may be.

(2) No person shall transfer any property which is subject to a charge under sub-section (1) except with the previous permission in writing of the co-operative society which holds the charge.

(3) Notwithstanding anything contained in any law for the time being in force, any transfer of property made in contravention of the provisions of sub-section (2) shall be void.

(4) The charge created under sub-section (1) shall be available as against any claim of the Government arising from a loan granted under the Land Improvement Loans Act, 1883 (Central Act XIX of 1883), or the Agriculturists' Loans Act, 1884 (Central Act XII of 1884), after the grant of the loan by the society.

33. Charge on land, owned by members or held as tenants by members borrowing loans from certain co-operative societies.—

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force,—

- (i) any person who makes an application to a co-operative society of which he is a member for a loan shall, if he owns any land, or holds any land as a tenant make a declaration in the prescribed form. Such declaration shall state that the applicant thereby creates a charge on the land owned by him or on his interest in the land held by him as tenant and specified therein for the payment of the amount of the loan which the society may make to the member in pursuance of the application and for all future advances, if any, required by him which the society may make to the member as such member subject to such maximum as may be determined by the society together with interest on such amount of the loan and advances;
- (ii) a declaration made under clause (i) may be varied at any time by a member with the consent of the co-operative society in favour of which such charge is created;
- (iii) no member shall alienate the whole or any part of the land or any interest of his in the land specified in the declaration made under clause (i) or varied under clause (ii) until the whole amount borrowed by the member together with interest thereon is paid in full:

Provided that standing crops on any such land may be alienated with the previous permission in writing of the society;

- (iv) any alienation made in contravention of the provisions of clause (iii) shall be void;

(v) subject to the prior claims of the Government in respect of land revenue or any money recoverable as land revenue and the prior claims of any person in whose favour alienation of the land or interest in such land has been effected and duly registered, before the date of the grant of the loan by the society, there shall be a first charge in favour of the society on the land or interest in the land specified in the declaration made under clause (i) or varied under clause (ii) for and to the extent of the dues owing by him on account of the loan.

(2) Notwithstanding anything contained in the Mysore Land Record of Rights Act, 1958 (Mysore Act 17 of 1958),

(i) the record of rights maintained under the said Act shall also include the particulars of every charge on land or interest in land created under sub-section (1) ;

(ii) the co-operative society in whose favour a charge is created under sub-section (1) shall communicate the particulars of the charge, and when the loan is discharged, the cessation of the charge, to the Deputy Commissioner or the prescribed officer and he shall cause necessary entries to be made in the record of rights ;

(iii) the State Government may, by notification in the official Gazette, make rules to carry out the purposes of clauses (i) and (ii).

Explanation.—For the purpose of this section,—

(1) 'land' shall mean land to which the Mysore Land Record of Rights Act, 1958, is applicable ; and

(2) 'co-operative society' shall mean a co-operative society of which majority of the members are agriculturists and which is—

(a) a credit society the primary object of which is to obtain credit for its members ; or

(b) any other class of society specified in this behalf by the State Government by general or special order.

34. Deduction from salary to meet society's claim in certain cases.—

(1) Notwithstanding anything contained in any law for the time being in force, a member of a co-operative society may execute an agreement in favour of the society providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer, such amount as may be specified in the agreement,

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and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the society.

(2) On the execution of such an agreement the employer shall, if so required by the co-operative society by requisition in writing and so long as such debt or demand or any part of it remains unpaid, make the deduction in accordance with the agreement and pay the amount so deducted to the society within fourteen days from the date of the deduction.

(3) Nothing contained in this section shall apply to persons employed in railways as defined in Article 366 of the Constitution, mines and oil fields.

35. Charge and set off in respect of shares or interest of members in the capital of a co-operative society.—A co-operative society shall have a charge upon the share or interest in the capital and on the deposits of a member or a past member and on any dividend, bonus or profits payable to a member or a past member in respect of any debt or outstanding demand owing to the co-operative society and may set off any sum credited or payable to a member towards payment of any such debt or outstanding demand :

Provided that no financing bank to which a co-operative society is affiliated shall have a charge upon any sum invested in the financing bank as reserve fund by the society if the bank is not the sole creditor of the society, or be entitled to set off any such sum credited or payable to the society towards any debt due from such society.

36. Shares or interest not liable to attachment.—Subject to the provisions of section 35 the share or interest of a member in the capital of a co-operative society shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by such member or past member, and an official assignee or a receiver under any law relating to insolvency shall not be entitled to, or have any claim on, such share or interest.

37. Exemption from certain taxes, duties and fees.—The State Government, if in its opinion it is necessary in public interest so to do, may, by notification in the official Gazette, and subject to such restrictions and conditions as may be specified in such notification, reduce or exempt in respect of any class of co-operative societies—

(a) the tax payable under the Mysore Agricultural Income-tax Act, 1957 (Mysore Act 22 of 1957) for the time being in force ;

(b) the tax payable under the Mysore Sales Tax Act, 1957 (Mysore Act 25 of 1957) for the time being in force ;

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(c) the duties with which any instrument executed by or on behalf of a co-operative society or by an officer or member thereof and relating to the business of such society, or any class of such instruments or in respect of any award or order made under this Act, are chargeable under the Mysore Stamp Act, 1957 (Mysore Act 34 of 1957) for the time being in force ;

(d) the fees payable in respect of any document under the Mysore Court-Fees and Suits Valuation Act, 1958 (Mysore Act 16 of 1958) for the time being in force ;

(e) any fee payable under the Indian Registration Act, 1908 (Central Act XVI of 1908) for the time being in force.

38. Exemption from compulsory registration of instruments.— Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the Indian Registration Act, 1908 (Central Act XVI of 1908), shall apply to—

(a) any instrument relating to shares in a co-operative society notwithstanding that the assets of the society consist in whole or in part of immovable property ;

(b) any debentures issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immoveable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immoveable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures or

(c) any endorsement upon or transfer of any other debenture issued by any such society.

39. Registration of documents executed on behalf of co-operative societies.—(1) Notwithstanding anything contained in the Indian Registration Act, 1908 (Central Act XVI of 1908), it shall not be necessary for any member of a committee, secretary or other officer of a co-operative society or any officer of the Department of Co-operation to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity on behalf of a co-operative society or to sign as provided in section 58 of that Act.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he

thinks fit, refer to such member, secretary or officer for information respecting the same, and on being satisfied of the execution thereof, shall register the instrument.

CHAPTER VI.

STATE AID TO CO-OPERATIVE SOCIETIES.

40. Promotion of co-operative movement.—It shall be the duty of the State Government to encourage and promote the co-operative movement including encouragement of co-operative farming in the State and to take such steps in this direction as may be necessary.

41. Direct partnership of State Government in co-operative societies.—(1) The State Government may subscribe directly to the share capital of a co-operative society with limited liability.

(2) Notwithstanding any agreement to the contrary, the State Government shall not be entitled to a dividend on the shares of any such co-operative society at a rate higher than that at which such dividend is payable to any other shareholder of the society.

42. Indirect partnership of State Government in co-operative societies.—The State Government may, subject to appropriation by law, provide moneys to a co-operative society (hereinafter in this Chapter referred to as apex society) for the purchase of shares in other co-operative societies with limited liability.

43. Principal State Partnership Fund.—(1) An apex society which is provided with moneys by the State Government under section 42 shall, with such moneys, establish a Fund to be called the 'Principal State Partnership Fund'.

(2) An apex society shall utilise the 'Principal State Partnership Fund' for the purpose of—

(a) directly purchasing shares in other co-operative societies with limited liability;

(b) providing moneys to a co-operative society (hereinafter in this Chapter referred to as central society) to enable that society to purchase shares in other co-operative societies with limited liability (hereinafter in this Chapter referred to as primary societies);

(c) making payments to the State Government in accordance with the provisions of this Chapter;

and for no other purpose.

44. Subsidiary State Partnership Fund.—(1) A central society which is provided with moneys by an apex society from the 'Principal State Partnership Fund' shall, with such moneys, establish a Fund to be called the 'Subsidiary State Partnership Fund'.

(2) A central society shall utilise the 'Subsidiary State Partnership Fund' for the purpose of—

(a) purchasing shares in primary societies;

(b) making payments to the apex society in accordance with the provisions of this Chapter;

and for no other purpose.

45. Approval of State Government for purchase of shares.—No shares shall be purchased in a co-operative society from the moneys in the 'Principal State Partnership Fund' or the 'Subsidiary State Partnership Fund,' except with the previous approval in writing of the State Government.

46. Liability to be limited in respect of certain shares.—Where any shares are purchased in a co-operative society by—

(a) the State Government; or

(b) an apex society or a central society from the 'Principal State Partnership Fund' or the 'Subsidiary State Partnership Fund' as the case may be, the liability in respect of such shares shall, in the event of the co-operative society being wound up, be limited to the amount paid in respect of such shares.

47. Restriction on amount of dividend.—An apex society which has purchased shares in other co-operative societies from the moneys in the 'Principal State Partnership Fund' and a central society which has purchased shares in the primary societies from the moneys in the 'Subsidiary State Partnership Fund' shall be entitled only to such dividend on the said shares as is declared by the society concerned and is payable to other shareholders of that society.

48. Indemnity of apex and central societies.—(1) If a co-operative society in which shares are purchased from the 'Principal State Partnership Fund,' is wound up or dissolved, the State Government shall not have any claim against the apex society which purchased the shares, in respect of any loss arising from such purchase; but the State Government shall be entitled to any moneys received by the apex society in liquidation proceedings or on dissolution, as the case may be.

(2) If a co-operative society in which shares are purchased from the 'Subsidiary State Partnership Fund' is wound up or is dissolved, neither the State Government nor the apex society shall have any claim against the central society which purchased the shares, in respect of any loss arising from such purchase; but the apex society shall be entitled to any moneys received by the central society in liquidation proceedings or on dissolution, as the case may be, and such moneys shall be credited to the 'Principal State Partnership Fund'.

49. Disposal of share capital and dividend, etc.—(1) All moneys received by an apex society in respect of shares of other co-operative societies purchased from the moneys in the, 'Principal State Partnership Fund' on redemption of such shares or by way of dividends or otherwise, shall in the first instance be credited to that Fund.

(2) All moneys received by a central society in respect of shares of primary societies purchased from the moneys in the 'Subsidiary State Partnership Fund' on redemption of such shares or by way of dividend or otherwise, shall in the first instance be credited to that Fund and then transferred to the apex society which shall credit them to the 'Principal State Partnership Fund'.

(3) All moneys and dividends referred to in sub-section (1) and sub-section (2) shall, notwithstanding that the share stands in the name of the apex society or the central society, as the case may be, be paid to the State Government.

(4) Save as provided in sub-section (3), the State Government shall not be entitled to any other return on the moneys provided by it to an apex society under section 42.

50. Disposal of 'Principal State Partnership Fund' and 'Subsidiary State Partnership Fund' on winding up of an apex or a central society.—

(1) If an apex society which has established a 'Principal State Partnership Fund' is wound up or is dissolved, all moneys to the credit of, or payable to, that Fund shall be paid to the State Government.

(2) If a central society which has established a 'Subsidiary State Partnership Fund' is wound up or is dissolved all moneys, to the credit of, or payable to, that Fund shall be paid and credited to the 'Principal State Partnership Fund' from which it received moneys under clause (b) of sub-section (2) of section 43.

51. Principal State Partnership Fund and Subsidiary State Partnership Fund not to form part of assets.—Any amount to the credit of a 'Principal State Partnership Fund' or a 'Subsidiary State Partner-

ship Fund' shall not form part of the assets of the apex society or the central society, as the case may be.

52. Agreement by State Government and apex societies.—Subject to the foregoing provisions of this Chapter—

(a) the State Government may enter into an agreement with an apex society setting out the terms and conditions on which it shall provide moneys to the apex society for the purpose specified in section 44;

(b) an apex society may, with the previous approval of the State Government, enter into an agreement with a central society, setting out the terms and conditions on which it shall provide moneys to that society from the 'Principal State Partnership Fund' for the purpose specified in clause (b) of sub-section (2) of section 43.

53. Other forms of State aid to Co-operative Societies.—Notwithstanding anything contained in any law for the time being in force, the State Government may—

(a) give loans or make advances to co-operative societies;

(b) guarantee the repayment of principal and payment of interest on debentures issued by a co-operative society;

(c) guarantee the repayment of share capital of a co-operative society and dividends thereon at such rates as may be specified by the State Government;

(d) guarantee the repayment of principal and payment of interest on loans and advances to a co-operative society; and

(e) give financial assistance in any other form, including subsidies, to any co-operative society.

54. Control of society assisted.—Where State aid amounting to not less than two lakhs of rupees is given to any co-operative society, the State Government, if it is satisfied that it is necessary in public interest so to do, may by notification in the official Gazette take power to exercise such control over the conduct of business of such society as shall suffice in the opinion of the State Government to safeguard the interests of the State.

55. Provisions of this Chapter to override other laws.—The provisions of sections 42 to 54 of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in this Act or any other law for the time being in force.

CHAPTER VII.

PROPERTIES AND FUNDS OF CO-OPERATIVE SOCIETIES.

56. Funds not to be divided.—No part of the funds other than the net profits of a co-operative society shall be paid by way of bonus or dividend or otherwise distributed among its members :

Provided that a member may be paid such remuneration, allowances or honoraria on such scale as may be laid down by the bye-laws for any services rendered by him to the co-operative society.

57. Net profits and their disposal.—(1) The net profits of co-operative societies shall be determined in accordance with such rules as may be prescribed and different rules may be made for different classes of co-operative societies.

(2) A co-operative society shall, out of its net profits in any year transfer an amount not being less than twenty-five per cent of the profits to the reserve fund.

(3) The balance of the net profits may be utilised for all or any of the following purposes, namely—

- (a) payment of dividend to members on their paid-up share capital at a rate not exceeding the prescribed limit ;
- (b) payment of such percentage of the net profits as may be specified in the bye-laws to the Co-operative Education Fund constituted under the rules ;
- (c) payment of bonus to members on the amount or volume of business done by them with the society to the extent and in the manner specified in the bye-laws :

Provided that no bonus shall be payable to members in a credit society ;

- (d) constitution of, or contributions to, such special funds as may be specified in the bye-laws ;
- (e) donations of amounts not exceeding ten per cent of the net profits for any charitable purpose as defined in section 2 of Charitable Endowments Act, 1890 (Central Act VI of 1890) ; and
- (f) payment of bonus to employees of the society, to the extent and in the manner specified in the bye-laws :

Provided that the bonus payable in any year to any employee shall not exceed two months' pay.

58. Investment of funds.—A co-operative society may invest or deposit its funds,—

- (a) in a Government Savings Bank ; or
- (b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882 (Central Act II of 1882) ; or
- (c) in the shares or securities of any other co-operative society ; or
- (d) with any co-operative bank or scheduled bank approved by the Registrar.

59. Restrictions on borrowings.—A co-operative society shall receive deposits and loans only to such extent and under such conditions as may be prescribed or as may be specified in the bye-laws.

60. Restrictions on loans.—(1) A co-operative society shall not make a loan to any person other than a member :

Provided that with the general or special sanction of the Registrar, a co-operative society may make loans to another co-operative society.

(2) Notwithstanding anything contained in sub-section (1), a co-operative society may make a loan to a depositor on the security of his deposit.

61. Restrictions on other transactions with non-members.—Save as is provided in sections 59 and 60, the transactions of a co-operative society with persons other than members shall be subject to such restrictions, if any, as may be prescribed.

62. Provident Fund.—(1) A co-operative society may establish a contributory Provident Fund for the benefit of its employees to which shall be credited all contributions made by the employees and society in accordance with the bye-laws of the society.

(2) A contributory Provident Fund established by a co-operative society under sub-section (1)—

- (a) shall not be used in the business of the society ;
- (b) shall not form part of the assets of the society ; and
- (c) shall not be liable to attachment or be subject to any other process of any court or other authority.

CHAPTER VIII.

AUDIT, INQUIRY, INSPECTION AND SURCHARGE.

63. Audit.—(1) The Registrar shall audit or cause to be audited by a person authorised by him by general or special order in writing in this behalf, the accounts of every co-operative society at least once in each year.

(2) The audit under sub-section (1) shall include an examination of overdue debts, if any, the verification of the cash balance and securities, a valuation of the assets and liabilities, and an examination of the working and the other prescribed particulars of the society.

(3) The Registrar or the authorised person shall at all times have access to all the books, accounts, documents, papers, securities, cash and other properties belonging to, or in the custody of, the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, paper, securities, cash or other properties, to produce the same at any public office at the headquarters of the society or any branch thereof.

(4) Every person who is, or has at any time been, an officer or employee of the society and every member and past member of the society shall furnish such information in regard to the transaction and working of the society as the Registrar or the person authorised by him may require.

(5) If the result of the audit discloses any defects in the working of a co-operative society, the Registrar may bring such defects to the notice of the society and if the society is affiliated to another co-operative society, also to the notice of that other society.

64. Inquiry by Registrar.—(1) The Registrar may, of his own motion, by himself or by a person authorised by him, by order in writing, hold an inquiry into the constitution, working and financial condition of a co-operative society.

(2) An inquiry of the nature referred to in sub-section (1) shall be held on the application of—

- (a) a co-operative society to which the society concerned is affiliated ;
- (b) a majority of the members of the committee of the society;
or
- (c) not less than one-third of the total number of members of the society.

(3) The Registrar, or the person authorised by him under sub-section (1) shall, for the purposes of an inquiry under this section have the following powers, namely,—

- (a) he shall, at all times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same at any public office at the headquarters of the society or any branch thereof;
- (b) he may summon any person who, he has reason to believe has knowledge of any of the affairs of society, to appear before him at any public office at the headquarters of the society or any branch thereof and may examine such person on oath; and
- (c) (i) he may, notwithstanding any rule or bye-law specifying the period of notice for a general meeting of the society, require the officers of the society to call a general meeting at such time and place at the headquarters of the society or any branch thereof and to determine such matters as may be directed by him, and where the officers of the society refuse or fail to call such a meeting he shall have power to call it himself;
- (ii) any meeting called under clause (i) shall have the powers of the general meeting called under the bye-laws of the society and its proceeding shall be regulated by such bye-laws except that no quorum shall be necessary for such meeting.

(4) When an inquiry is made under this section, the Registrar shall communicate the result of the inquiry to the society and to the co-operative society, if any, to which that society is affiliated.

65. Inspection of books of a co-operative society.—(1) The Registrar may of his own motion, or on the application of a creditor of a co-operative society, inspect or direct any person authorised by him by order in writing in this behalf, to inspect the books of the society:

Provided that no such inspection shall be made on the application of a creditor unless the applicant,—

- (a) satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has

not received satisfaction within a reasonable time ;
and

- (b) deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(2) The Registrar shall communicate the results of any such inspection—

- (a) where the inspection is made of his own motion to the society ; and
(b) where the inspection is made on the application of a creditor, to the creditor and the society.

66. Power to seize books and property.—If any officer or person conducting audit under section 63, inquiry under section 64 or inspection under section 65, has reason to believe that any books or other property of the society have been tampered with or are likely to be tampered with, if left with the society with a view to eliminate or efface or change or manipulate any evidence which may be deemed necessary by such officer or person in connection with the proof of any defect or irregularities noticed by him during the course of audit, inquiry or inspection, he shall have power to seize and impound such books or property in such manner and for such period as may be prescribed.

67. Costs of Inquiry.—Where an inquiry is held under section 64 or an inspection is made under section 65 on the application of a creditor, the Registrar may apportion the costs, or such part of the costs, as he may deem fit, between the co-operative society to which the society concerned is affiliated, the society, the members or creditor demanding an inquiry or inspection, and the officers or former officers of the society :

Provided that—

- (a) no order of apportionment of the costs shall be made under this section unless the society or the person sought to be made liable to pay the costs thereunder has had a reasonable opportunity of being heard ;
(b) the Registrar shall state in writing the grounds on which the costs are apportioned.

68. Order by the Registrar.—The Registrar may make an order directing the co-operative society or its officers to take such action as may be specified in the order within the time mentioned therein to

remedy the defects disclosed in the audit under section 63 or the inquiry under section 64 or inspection under section 65.

Explanation.—For purposes of this section “defects” mean contraventions of any provision of this Act or any rule or bye-law or any other law or legal provision for the time being in force.

69. Surcharge.—If, in the course of an audit, inquiry, inspection or the winding up of a co-operative society, it is found that any person, who is or was entrusted with the organisation or management of such society or who is or has at any time been an officer or an employee of the society, has made any payment contrary to this Act, the rules or the bye-laws or has caused any deficiency in the assets of the society by breach of trust or wilful negligence or has misappropriated or fraudulently retained any money or other property belonging to such society, the Registrar may, of his own motion or on the application of the Committee, Liquidator or any creditor, inquire himself or direct any person authorized by him, by an order in writing in this behalf, to inquire into the conduct of such person.

(2) Where an inquiry is made under sub-section (1), the Registrar may, after giving the persons concerned an opportunity of being heard, make an order requiring him to repay or restore the money or property or any part thereof, with interest at such rate, or to pay contribution and costs or compensation to such extent, as the Registrar may consider just and equitable.

CHAPTER IX.

SETTLEMENT OF DISPUTES.

70. Disputes which may be referred to Registrar for decision.—(1) Notwithstanding anything contained in any law for the time being in force, if any dispute touching the constitution, management or the business of a co-operative society arises—

- (a) among members, past members and persons claiming through members, past members and deceased members, or
- (b) between a member, past member or person claiming through a member, past member or deceased member and the society, its committee or any officer, agent or employee of the society, or

- (c) between the society or its committee and any past committee, any officer, agent or employee, or any past officer, past agent or past employee or the nominee, heirs, or legal representatives of any deceased officer, deceased agent, or deceased employee of the society, or

- (d) between the society and any other co-operative society,

such dispute shall be referred to the Registrar for decision and no court shall have jurisdiction to entertain any suit or other proceeding in respect of such dispute.

(2) For the purposes of sub-section (1), the following shall be deemed to be disputes touching the constitution, management or the business of a co-operative society, namely—

- (a) a claim by the society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such debt or demand be admitted or not;
- (b) a claim by a surety against the principal debtor where the society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor, as a result of the default of the principal debtor whether such debt or demand is admitted or not;
- (c) any dispute arising in connection with the election of a President, Vice-President, Chairman, Vice-Chairman, Secretary, Treasurer or Member of Committee of the society.

(3) If any question arises whether a dispute referred to the Registrar under this section is a dispute touching the constitution, management or the business of a co-operative society, the decision thereon of the Registrar shall be final and shall not be called in question in any court.

71. Disposal of disputes.—(1) The Registrar may, on receipt of the reference of a dispute under section 70,—

- (a) decide the dispute himself, or
- (b) transfer it for disposal to any person who has been invested by the State Government with powers in that behalf, or
- (c) refer it for disposal to one arbitrator appointed by the Registrar.

(2) The Registrar may withdraw any reference transferred under clause (b) of sub-section (1) or referred under clause (c) of that sub-section and decide it himself.

(3) The Registrar or any other person to whom a dispute is referred for decision under this section may, pending the decision of the dispute, make such interlocutory orders as he may deem necessary in the interests of justice.

(4) Notwithstanding anything contained in section 70, when any dispute under clause (a) or (b) of section (1) of the said section is referred for decision to the Registrar, and the Registrar is satisfied on an application by the society concerned that in the interest of the society it is necessary for an effective decision of the dispute to implead persons who cannot be made parties to the dispute in proceedings before him, he may permit the society to institute a regular suit in a Civil Court having jurisdiction and the Civil Court shall be competent to entertain such suit.

CHAPTER X

WINDING UP AND DISSOLUTION OF CO-OPERATIVE SOCIETIES.

72. Winding up of co-operative societies.—(1) If the Registrar after an inquiry has been held under section 64 or an inspection has been made under section 65 or on receipt of an application made by not less than three-fourths of the members of a co-operative society, is of opinion that the society ought to be wound up, he may issue an order directing it to be wound up.

(2) The Registrar may, of his own motion, make an order directing the winding up of a co-operative society—

(a) where it is a condition of the registration of the society that the society shall consist of at least ten members and the number of members has been reduced to less than ten ; or

(b) where the co-operative society has not commenced working or has ceased to work.

(3) The Registrar may cancel an order for the winding up of a co-operative society, at any time, in any case where, in his opinion, the society should continue to exist.

73. Liquidator.—(1) Where the Registrar has made an order under section 72 for the winding up of a co-operative society, he may appoint a Liquidator for the purpose and fix his remuneration.

(2) A Liquidator shall, on appointment, take into his custody or under his control all the property, effects and actionable claims to which the society is or appears to be entitled and shall take such steps as he may deem necessary or expedient, to prevent loss or deterioration of, or damage to such property, effects and claims.

(3) Where an appeal is preferred under section 106, an order of winding up of a co-operative society made under section 72 shall not operate thereafter until the order is confirmed in appeal :

Provided that the Liquidator shall continue to have custody or control of the property, effects and actionable claims mentioned in sub-section (2) and have authority to take the steps referred to in that sub-section.

(4) Where an order of winding up of a co-operative society is set aside in appeal, the property, effects and actionable claims of the society shall revert in the society.

74. Powers of Liquidator.—(1) Subject to any rules made in this behalf, the whole of the assets of a co-operative society in respect of which an order for winding up has been made, shall vest in the Liquidator appointed under section 73 from the date on which the order takes effect and the Liquidator shall have power to realise such assets by sale or otherwise.

(2) Such Liquidator shall also have power, subject to the control of the Registrar—

- (a) to institute and defend suits and other legal proceedings on behalf of the co-operative society by the name of his office ;
- (b) to determine from time to time the contribution to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the society ;
- (c) to investigate all claims against the co-operative society and, subject to the provisions of this Act, to decide questions of priority arising between claimants ;
- (d) to pay claims against the co-operative society including interest up to the date of winding up according to their respective priorities, if any, in full or rateably, as the assets of the society may permit ; the surplus, if any, remaining after payment of the claims being

- applied in payment of interest from the date of such order of winding up at a rate fixed by him but not exceeding the contract rate in any case ;
- (e) to determine by what persons and in what proportions the costs of the liquidation are to be borne ;
 - (f) to determine whether any person is a member, past member or nominee of a deceased member ;
 - (g) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society ;
 - (h) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same ;
 - (i) to make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging to have any claim, present or future, whereby the society may be rendered liable ; and
 - (j) to compromise all calls or liabilities to call and debts and liabilities capable of resulting in debts and all claims present or future, certain or contingent, subsisting or supposed to subsist between the society and a contributory or alleged contributory or other debtor or person apprehending liability to the co-operative society and all questions in any way relating to or affecting the assets or the winding up of the society on such terms as may be agreed and take any security for the discharge of any such call, liability, debt or claim and give a complete discharge in respect thereof.

(3) When the affairs of a co-operative society have been wound up, the Liquidator shall make a report to the Registrar and deposit the records of the society in such place as the Registrar may direct.

75. Cancellation of registration of a co-operative society.—Where in respect of a co-operative society which has been ordered to be wound up under section 72, no Liquidator has been appointed under section 73 after two months from the date of such order, or if an appeal has been filed, from the date of confirmation of the order in appeal, or where the affairs of a co-operative society in respect of which a Liquidator has been appointed under section 73, have been wound up, the Registrar shall make an order cancelling the registration of the society and the society shall be deemed to be dissolved and shall cease to exist as a corporate body from the date of such order of cancellation.

CHAPTER XI.

LAND MORTGAGE BANKS.

76. Definitions.—In this Chapter—

(a) 'Board' means the Board of Directors of the State Land Mortgage Bank ;

(b) 'Land Mortgage Bank' means a Co-operative Land Mortgage Bank registered or deemed to be registered under this Act and admitted as a member of the State Land Mortgage Bank ;

(c) 'State Land Mortgage Bank' means the Mysore Central Co-operative Land Mortgage Bank, Limited ;

(d) 'Trustee' means the Trustee referred to in section 77.

77. Appointment of Trustee and his powers and functions.—

(1) The Registrar, or where the State Government appoints any other person in this behalf, such person, shall be the Trustee for the purpose of securing the fulfilment of the obligations of the State Land Mortgage Bank to the holders of debentures issued by the Board.

(2) The powers and functions of the Trustee shall be governed by the provisions of this Act and by the instrument of trust executed between the Bank and the Trustee as modified from time to time by mutual agreement between the Board and the Trustee.

78. Trustee to be a corporation sole.—The Trustee appointed under section 77 shall be a corporation sole by the name of the Trustee for the debentures and as such shall have perpetual succession and a common seal and in his corporate name shall sue and be sued.

79. Issue of debentures by the Board.—(1) With the previous sanction of the Trustee, the Board may from time to time issue debentures of one or more denominations for such periods as it may deem expedient, on the security of the mortgages and other assets transferred or deemed under the provisions of section 85 to have been transferred by the Land Mortgage Banks to the State Land Mortgage Bank and other properties of such Bank.

(2) Such debentures may contain a term fixing a period not exceeding fifteen years from the date of issue during which they shall be irredeemable, or reserving to the Board the right to call in at any

time any of the debentures in advance of the date fixed for redemption, after giving to the debenture-holder concerned not less than three months' notice, in writing.

(3) The total amount due on the debentures issued by the Board and outstanding at any time shall not exceed the aggregate of—

(a) the amounts due on the mortgages and the value of the other assets, transferred or deemed, under the provisions of section 85, to have been transferred by the Land Mortgage Banks to the State Land Mortgage Bank and subsisting at such time; and

(b) the amounts paid under the mortgages aforesaid and remaining in the hands of the Board or of the Trustee at that time.

80. Charge of debenture holders on certain properties.—The holders of the debentures shall have a floating charge on—

(a) all such mortgages and assets as are referred to in clause (a) of sub-section (3) of section 79;

(b) the amount paid under such mortgages and remaining in the hands of the Board or of the Trustee; and

(c) the other properties of the State Land Mortgage Bank.

81. Guarantee by State Government of principle of, and interest on debentures.—(1) The principal of, and interest on the debentures issued under section 79 shall, in respect of such maximum amount as may be fixed by the State Government and subject to such conditions as it may think fit to impose, carry the guarantee of the State Government.

(2) The State Government may, subject to any law of the Legislature of the State, increase the maximum amount of any guarantee given under sub-section (1).

(3) The State Government may, after consulting the Board and the Trustee,—

(a) by notification in the official Gazette; and

(b) by notice of not less than fourteen days in such of the principal newspapers in the State and of other States in India as the State Government may select in this behalf;

discontinue any guarantee given by it or restrict the maximum amount thereof or modify the conditions, subject to which it is given;

with effect from a specified date, not being earlier than six months from the date of publication of the notification in the Official Gazette :

Provided that the withdrawal, restriction or modification of any guarantee under this sub-section, shall not in any way affect the guarantee carried by any debentures issued prior to the date on which such withdrawal, restriction or modification takes effect.

(4) Every notification and notice referred to in sub-section (3) shall, where the maximum amount of the guarantee is to be restricted, or the conditions subject to which the guarantee is given are to be modified, set forth precisely the scope and effect of the restriction or modification, as the case may be.

82. Other guarantees by State Government.—(1) The State Government may by general or special order authorise the grant of loans to members by the State Land Mortgage Bank or the Land Mortgage Banks for the development of land in excess of the loans to which such members may be entitled on the basis of the value of the lands determined in accordance with the principles of valuation approved by the State Government, such excess not exceeding such limits as may be specified in such order.

(2) In respect of loans granted in accordance with sub-section (1), the State Government may guarantee for a specified period the repayment of the loan to the extent of the excess granted to the members.

83. Priority of mortgage over certain claims.—A mortgage executed in favour of a Land Mortgage Bank shall have priority over any claim of the Government arising from a loan under the Land Improvement Loans Act, 1883, (Central Act XIX of 1883) or the Agriculturists Loans Act, 1884, (Central Act XII of 1884) granted after the execution of the mortgage.

84. Right of Land Mortgage Bank or of the State Land Mortgage Bank to purchase mortgaged property.—(1) Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the State Land Mortgage Bank or a Land Mortgage Bank to purchase any mortgaged property sold under this Chapter, and the property so purchased shall be disposed of by such bank by sale within such period as may be fixed by the Trustee.

(2) Nothing in any law fixing a maximum limit of agricultural holding shall apply to the acquisition of land by a Land Mortgage Bank or the State Land Mortgage Bank under sub-section (1).

85. Mortgages executed in favour of Land Mortgage Bank to stand vested in State Land Mortgage Bank.—The mortgages executed in favour of, and all other assets transferred to a Land Mortgage Bank by the members thereof shall, with effect from the date of such execution or transfer, be deemed to have been transferred by such Land Mortgage Bank to the State Land Mortgage Bank and shall vest in the Trustee.

86. Power of Land Mortgage Bank to receive moneys and grant discharges.—Notwithstanding that a mortgage, executed in favour of a Land Mortgage Bank has been transferred, or is deemed under the provisions of section 85 to have been transferred, to the State Land Mortgage Bank,—

(a) all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Board or Trustee and communicated to the mortgagor, be payable to the Land Mortgage Bank and such payment shall be as valid as if the mortgage had not been so transferred ; and

(b) the Land Mortgage Bank shall, in the absence of any specific direction to the contrary issued by the Board or Trustee and communicated to the Land Mortgage Bank, be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage.

87. Right of Land Mortgage Bank to pay prior debts of mortgagor.—(1) Where a mortgage is executed in favour of a Land Mortgage Bank for payment of prior debts of the mortgagor, the Bank may, notwithstanding the provisions of sections 83 and 84 of the Transfer of Property Act, 1882, (Central Act IV of 1882) by notice in writing, require any person to whom any such debt is due, to receive payment of such debt or part thereof from the bank at its registered office within such period as may be specified in the notice.

(2) Where any such person fails to receive such notice or such payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiration of the period specified in the notice :

Provided that where there is a dispute as regards the amount of any such debt, the person to whom such debt is due shall be bound to receive payment of the amount offered by the Land Mortgage Bank towards the debt, but such receipt shall not prejudice the right, if any, of such person, to recover the balance claimed by him.

(3) For purposes of determining the particulars of prior debts referred to in sub-section (1), any officer of the State Land Mortgage Bank or of the Land Mortgage Bank, authorised in this behalf by the State Government by notification in the official Gazette, may, subject to such restrictions, limitations and conditions as may be prescribed, by order in writing require any person to whom any such prior debt may be due, to furnish any information or any document relating to such debt, and thereupon such person shall furnish the information or document so required.

88. Distraint—When to be made.—(1) If any instalment payable under a mortgage executed in favour of a Land Mortgage Bank or any part of such instalment has remained unpaid for more than one month from the date on which it fell due, the committee may, in addition to any other remedy available to the Bank, apply to the Registrar for the recovery of such instalment or part thereof by distraint and sale of the produce of the mortgaged land including the standing crops thereon.

(2) On receipt of such application, the Registrar may, notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act IV of 1882) take action in the manner prescribed for the purpose of distraining and selling such produce:

Provided that no distraint shall be made after the expiry of twelve months from the date on which the instalment fell due.

(3) The value of the property distrained shall be, as nearly as possible, equal to the amount due and the expenses of the distraint and the costs of the sale.

89. Power of sale when to be exercised.—(1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act IV of 1882), where a power of sale without the intervention of the court is expressly conferred on the Land Mortgage Bank by the mortgage deed, the committee of such Bank or any person authorised by such committee in this behalf shall, in case of default of payment of the mortgage money or any part thereof, have power, in addition to any other remedy available to the Bank, to bring the mortgaged property to sale without the intervention of the court.

(2) No such power shall be exercised unless and until,—

(a) the Board has previously authorized the exercise of the power conferred by sub-section (1), after hearing the objections, if any, of the mortgagor;

- (b) notice in writing requiring payment of such mortgage money or part has been served upon—
 - (i) the mortgagor ;
 - (ii) any person who has any interest in or charge upon the property mortgaged or in or upon the right to redeem the same ;
 - (iii) any surety for the payment of the mortgage debt or any part thereof ; and
 - (iv) any creditor of the mortgagor who has in a suit for the administration of his estate obtained a decree for sale of the mortgaged property ; and
 - (c) default has been made in payment of such mortgage money or part thereof for three months after such service.
- (3) No sale of the mortgaged property under this section shall be conducted except in such manner and subject to such conditions including conditions relating to setting aside of the sale on deposit of prescribed amount and confirmation of sale, as may be prescribed.

90. Powers of Land Mortgage Bank where mortgaged property is destroyed or security becomes insufficient.—Where any property mortgaged to a Land Mortgage Bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the committee of the Land Mortgage Bank, of providing further security enough to render the whole security sufficient or of repaying such portion of the loan as may be determined by the committee, has failed to provide such security or to repay such portion of the loan, the whole of the loan shall be deemed to fall due at once and the committee shall be entitled to take action against the mortgagor under section 88 or section 89 for the recovery thereof.

Explanation.—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the bye-laws of the Land Mortgage Bank.

91. Power of Board or of Trustee to distrain and sell property, etc.—(1) The Board or the Trustee may direct the committee of a Land Mortgage Bank to take action against a defaulter under section 88, section 89 or section 90 and if the committee neglects or fails to do so, the Board or the Trustee may take such action.

(2) (a) Where such action is taken by the Board, the provisions of this Chapter and of any rules or regulations made in this behalf shall apply in respect thereto as if all references to the Land Mortgage Bank and to its Committee in the said provisions were references to the State Land Mortgage Bank and the Board, respectively.

(b) Where such action is taken by the Trustee, the provisions of this Act and of any rules or regulations made thereunder shall apply in respect thereto as if all references to the Mortgage Bank or to its committee in the said provisions were references to the Trustee.

92. Title of purchaser not to be questioned on the ground of irregularity, etc.—Where any property is sold in the exercise or purported exercise of a power of sale under section 89, the title of the purchaser shall not be questioned on the ground that,—

(a) the circumstances required for authorising the sale had not arisen, or

(b) the power of sale was otherwise improperly or irregularly exercised;

but any person who has suffered any damage by an unauthorised, improper or irregular exercise of any such power shall have a remedy in damages against the Land Mortgage Bank.

93. Mortgage not to be questioned on insolvency of mortgagor.—Notwithstanding anything contained in any law relating to insolvency, a mortgage executed in favour of a Land Mortgage Bank shall not be called in question on the ground that it was not executed in good faith for valuable consideration or on the ground that it was executed in order to give the Land Mortgage Bank a preference over the other creditors of the mortgagor.

94. Appointment of receiver and his powers.—(1) The Board may, on the application of a Land Mortgage Bank and under circumstances in which the power of sale conferred by section 89 may be exercised, appoint in writing a receiver of the produce and income of the mortgaged property or any part thereof and such receiver shall be entitled either to take possession of the property or collect its produce and income, as the case may be, to retain out of any money realised by him, his expenses of management including his remuneration, if any, as fixed by the Board, and to apply the balance in accordance with the provisions of sub-section (8) of section 69-A of the Transfer of Property Act, 1882 (Central Act IV of 1882).

(2) A receiver appointed under sub-section (1) may, for sufficient cause and on application made by the mortgagor, be removed by the Board.

(3) A vacancy in the office of the receiver may be filled up by the Board.

(4) Nothing in this section shall empower the Board to appoint a receiver where the mortgaged property is already in the possession of a receiver appointed by a civil court.

95. Mortgagor's powers to lease.—(1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act IV of 1882), or any other law for the time being in force, a mortgagor shall not grant a lease of the mortgaged property for a period exceeding five years.

(2) Any lease granted in contravention of the provisions of sub-section (1) shall be void.

96. Delegation of certain powers by Board.—The Board may, if it thinks fit, delegate all or any of its powers under sections 89, 91, and 94 to an executive committee constituted by it and consisting of two or more of its members.

97. Sections 102, 103 and 104 of the Transfer of Property Act, 1882, to apply to notices under this Chapter.—The provisions of sections 102 and 103 of the Transfer of Property Act, 1882 (Central Act IV of 1882), and of any rules made by the High Court under section 104 of that Act for carrying out the purposes of the said sections, shall apply, so far as may be, in respect of all notices to be served under this Chapter.

98. Power of the Board to make regulations.—(1) The Board may, by notification in the official Gazette, subject to the approval of the Trustee, make regulations not inconsistent with the provisions of this Act or the rules—

- (a) for fixing the period of debentures and the rate of interest payable thereon ;
- (b) for calling in debentures after giving notice to debenture holders ;
- (c) for the issue of new debentures in place of debentures damaged or destroyed ;
- (d) for converting one class of debentures into another bearing a different rate or interest ;

- (e) for the inspection of the account books and proceedings of Land Mortgage Banks ;
- (f) for the submission of returns and reports by Land Mortgage Banks in respect of their transactions ;
- (g) for the periodical settlement of accounts between Land Mortgage Banks and for the payment of the amounts recovered by Land Mortgage Banks on mortgages transferred or deemed under the provisions of section 85 to have been transferred to the State Land Mortgage Bank ;
- (h) for specifying the form in which applications to Land Mortgage Banks for loans should be made and for the valuation of the properties offered as security for such loans ;
- (i) for the investment of moneys realised from mortgages ;
- (j) generally for the purpose of carrying out the provisions of this Chapter.

CHAPTER XII.

EXECUTION OF AWARDS, DECREES, ORDERS AND DECISIONS.

99. Enforcement of charge.—Notwithstanding anything contained in Chapter IX, or any other law for the time being in force but without prejudice to any other mode of recovery provided in this Act, the Registrar or any person subordinate to him empowered by the Registrar in this behalf, may, on the application of a co-operative society, make an order directing the payment of any debt or outstanding demand due to the society by any member or past or deceased member, by sale of the property which is subject to a charge under sub-section (1) of section 32 :

Provided that no order shall be made under this section, unless the member, past members or the nominee, heir or legal representative of the deceased member, has been served with a notice of the application and has failed to pay the debt or outstanding demand within seven days from the date of such service.

100. Recovery of moneys due to Societies.—(1) Notwithstanding anything contained in Chapter IX or any other law for the time being in force, on an application made by an approved society for the recovery of arrears of any sum advanced by it to any of its members

on account of the financing of crops or seasonal finance and on its furnishing a statement of accounts in respect of the arrears, the Registrar may, after making an enquiry in such manner as may be prescribed, grant a certificate for the recovery of the amount stated therein to be due as arrears :—

Provided that if the determination of the amount due from any person to the society depends upon decisions on complicated questions of fact or law, the Registrar shall dispose of the case in accordance with the provisions of section 71 as if it were a dispute referred to him for decision under section 70.

(2) A certificate granted by the Registrar under sub-section (1) shall be final and conclusive. The arrears stated to be due therein shall be recoverable as arrears of land revenue or according to the procedure provided in section 101 :

Provided that any error in such certificate may be rectified by the Registrar *suo motu* or on the application of the society or the member affected by the certificate.

(3) It shall be lawful for the Deputy Commissioner to take precautionary measures authorised by sections 146 to 150 of the Mysore Land Revenue Code, 1888 (Mysore Act IV of 1888), until the arrears due to the society together with interest and any incidental charges incurred in the recovery of such arrears are paid or security for payment of such arrears is furnished to the satisfaction of the Registrar.

Explanation :— For the purpose of this section,—

- (i) “ approved society ” shall mean a society of such class of societies declared to be approved societies for purposes of this section by rules ;
- (ii) “ financing of crops ” shall mean advancing of loans for the raising of crops during the ploughing season or later for ploughing, weeding, harvesting, purchase of seeds, manure or for such other purposes as may be prescribed by the Registrar, such loans being repayable during the season when the crops for which the loans were advanced are harvested ;
- (iii) “ seasonal finance ” shall mean the advancing of loans for such purposes as may be specified by notification in the Official Gazette by the Registrar, such loans being repayable on or before the 31st of March following or such other date as may be specified by a like notification by the Registrar.

101. Execution of orders, etc.—Every order made by the Registrar under sub-section (2) of section 69 or under section 99, every decision or award made under section 71, every order made by the Liquidator under section 74 and every order made by the Tribunal under sections 105 and 107, and every order made under section 106 or 108 shall be subject to any other provision of this Act be binding on the person or co-operative society against whom the order, decision or award has been obtained or passed and shall, if not carried out,—

- (a) on a certificate signed by the Registrar, or any person authorised by him in this behalf, be deemed to be a decree of a Civil Court and shall be executed in the same manner as a decree of such court; or
- (b) be executed according to the law and under the rules for the time being in force for the recovery of arrears of land revenue:

Provided that an application for the recovery in such manner of any sum shall be made,—

- (i) to the Deputy Commissioner and shall be accompanied by a certificate signed by the Registrar or by any person authorised by him in this behalf;
- (ii) within twelve years from the date fixed, in the order, decision or award, and if no such date is fixed, from the date of the order, decision or award, as the case may be; or
- (c) be executed by the Registrar or any other person subordinate to him empowered by the Registrar in this behalf, by the attachment and sale or sale without attachment of any property of the person or a co-operative society against whom the order, decision or award has been obtained or passed.

102. Registrar or person empowered by him to be a civil court for certain purposes.—The Registrar or any person empowered by him in this behalf shall be deemed, when exercising any powers under this Act for the recovery of any amount by the attachment and sale or by sale without attachment of any property, or when passing any orders on any application made to him for such recovery or for taking a step-in-aid of such recovery, to be a civil court for the purposes of Article 182 of the First Schedule to the Indian Limitation Act, 1908 (Central Act IX of 1908).

103. Attachment of property before award or order.—If the Registrar is satisfied on an application, report, enquiry or otherwise,

that any person with intent to delay or obstruct the enforcement of any order, decision or award that may be made against him under the provisions of this Act,—

(a) is about to dispose of the whole or any part of his property, or

(b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar, the arbitrator or Liquidator, as the case may be,

he may, unless adequate security is furnished, direct the attachment of the said property; and such attachment shall have the same effect as if made by a competent civil court.

104. Recovery of sums due to Government.—(1) All sums due from a co-operative society or from an officer or member or past member of a co-operative society as such to Government including any costs awarded to Government under any provision of this Act, may, on a certificate issued by the Registrar in this behalf, be recovered in the same manner as arrears of land revenue.

(2) Sums due from a society to Government and recoverable under sub-section (1) may be recovered, firstly, from the property of the society; secondly, in the case of a society the liability of the members of which is limited, from the members, past members or the estates of deceased members, subject to the limit of their liability; and, thirdly, in the case of other societies, from the members, past members or the estates of deceased members:

Provided that the liability of past members and the estates of deceased members shall in all cases be subject to the provisions of section 25.

CHAPTER XIII.

APPEALS, REVISION AND REVIEW.

105. Appeals to the Tribunal.—Any person aggrieved by,—

(a) any decision of the Registrar made under clause (a) of sub-section (1) of section 71; or

(b) any decision of the person invested by the State Government with powers in that behalf under clause (b) of sub-section (1) of section 71;

(c) any award of an arbitrator under clause (c) of sub-section (1) of section 71 ; or

(d) any determination of a Liquidator under clause (f) of sub-section (2) of section 74 ;

(e) any order made under section 103 with a view to preventing any delay or obstruction in the execution of any decision or award that may be made under section 71 ;
may, within sixty days from the date of the decision, award or order, as the case may be, appeal to the Tribunal.

106. Appeals to other authorities.—(1) An appeal shall lie under this section against,—

- (a) an order of the Registrar made under sub-section (2) of section 7 refusing to register a co-operative society ;
- (b) an order of the Registrar made under sub-section (4) of section 12 refusing to register an amendment of the bye-laws of a co-operative society.
- (c) a decision of a co-operative society refusing to admit any person as a member of the society ; or expelling any member of the society ;
- (d) an order of the Registrar under sub-section (2) of section 27 ;
- (e) an order of the Registrar removing the committee of a co-operative society made under section 30 ;
- (f) the seizure and impounding of books or property under section 66 ;
- (g) an order made by the Registrar under section 67 apportioning the costs of an inquiry held under section 64 or an inspection made under section 65 ;
- (h) an order of the Registrar under section 68 ;
- (i) an order of surcharge made by the Registrar under section 69 ;
- (j) an order made by the Registrar under section 72 directing the winding up of a co-operative society ;
- (k) any order made by the Liquidator of a co-operative society in exercise of the powers conferred on him by section 74, other than a determination under clause (f) of sub-section (2) of that section ;

- (l) an order made by the Registrar under section 101 ; or
- (m) an order for attachment of any property made by the Registrar under section 103 other than an order referred to in clause (e) of section 105.

(2) An appeal against any act, decision or order under sub-section (1) shall be made within sixty days from the date of the act, decision or order,—

- (a) if the act, decision or order was made by any person other than the Registrar ; or a co-operative society, to the Registrar ; or
- (b) if the act, decision or order was made by the Registrar, to the State Government.

Explanation—For purposes of sub-section (2) “Registrar” shall not include a person exercising all or any of the powers of the Registrar.

107. Revision by Tribunal.—The Tribunal may *suo motu* or on application of any person aggrieved call for and examine the record of any proceedings in which an appeal lies to it for the purpose of satisfying itself as to the legality or propriety of any decision or order passed and if in any case it shall appear to the Tribunal that any such decision or order should be modified, annulled or revised, the Tribunal may pass such order thereon as it may deem fit.

108. Powers of revision of State Government.—The State Government *suo motu* at any time, and, on application of any person aggrieved, within a period of six months from the date of any order, may call for and examine the record of any case or proceedings of any officer subordinate to it except those subject to appeal or revision by the Tribunal or those in respect of which an appeal has been made to the State Government under section 106, and the State Government after such enquiry as it deems fit is satisfied that the order of the officer is contrary to law and has resulted in a miscarriage of justice, pass such orders thereon as the State Government deems just :

Provided that no order shall be made to the prejudice of any person under this section unless he has been given a reasonable opportunity of being heard.

CHAPTER XIV.

OFFENCES AND PENALTIES.

109. Offences.—(1) Any person other than a co-operative society carrying on business under any name or title of which the word "Co-operative" or its equivalent in any Indian Language, is part, without the sanction of the State Government, shall be punishable with a fine which may extend to two hundred rupees.

(2) Any member or past member or the nominee, heir or legal representative of a deceased member of a co-operative society who contravenes the provisions of section 32 or 33 by disposing of any property in respect of which the society is entitled to have a first charge under that section or do any other act to the prejudice of such claim, shall be punishable with fine which may extend to two hundred rupees.

(3) A co-operative society or an officer or member thereof wilfully making a false return or furnishing false information, or any person wilfully or without any reasonable excuse disobeying any summons, requisition or lawful written order issued under the provisions of this Act or wilfully not furnishing any information or handing over any documents or property required from him by a person or body of persons authorised in this behalf under the provisions of this Act, shall be punishable with fine which may extend to two thousand rupees.

(4) Any employer, who without sufficient cause, fails to make the deduction under sub-section (2) of section 34, or fails to pay to a co-operative society the amount deducted by him under sub-section (2) of section 34 within a period of fourteen days from the date on which such deduction is made, shall without prejudice to any action that may be taken against him under any law for the time being in force, be punishable with fine which may extend to two thousand rupees.

(5) If default is made in complying with provisions of sub-section (2) of section 16, sub-clause (ii) of clause (b) of sub-section (1) of section 24, sub-section (1) of section (28), section 56, section 58, section 59, section 60, or section 62, the co-operative society, and every officer or member of committee of the society who is in default shall be punishable with fine which may extend to two hundred rupees.

(6) If any person—

- (i) not eligible to become a member under section 17 applies to a co-operative society for admission as a member, or becomes a member, or after ceasing to be a member under sub-section (2) of that section, acts as a member,
- (ii) exercises the rights of a member in contravention of the provisions of section 19;
- (iii) wilfully fails to furnish the information or document in contravention of the provisions of sub-section (3) of section 87;
- (iv) grants a lease of the mortgaged property in contravention of sub-section (1) of section 95,

shall be punishable with fine which may extend to two hundred rupees.

110. Offences by companies.—(1) Where an offence under sub-section (1) or sub-section (4) of section 109 or under any rule has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in the aforesaid sub-section or in any rules, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under sub-section (1) or (4) of section 109 or any rule has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means a body corporate, and includes a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner of the firm.

111. Cognizance of offences.—(1) No court inferior to that of a Magistrate of the First Class shall try any offence under this Act.

(2) No prosecution shall be instituted under this Act without the previous sanction of the Registrar and such sanction shall not be given—

- (i) without giving to the person concerned an opportunity to represent his case; and
- (ii) if the Registrar is satisfied that the person concerned acted in good faith.

CHAPTER XV.

MISCELLANEOUS.

112. Prohibition against the use of the word "Co-operative".—No person other than a co-operative society shall trade or carry on business under any name or title of which the word "co-operative" or its equivalent in any Indian language is part :

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he carried on business at the date on which the Co-operative Societies Act, 1912 (Central Act II of 1912), came into operation.

113. Address of a co-operative society.—Every co-operative society shall have an address registered in accordance with the rules to which all notices and communications may be sent and shall send to the Registrar notice of any change thereof within thirty days of the change.

114. Copy of Act, Rules and Bye-laws to be open to inspection.—Every co-operative society shall keep a copy of this Act, the rules and its bye-laws open to inspection free of charge at all reasonable times at the registered address of the society.

115. Transitional provision regarding co-operative societies deemed to be registered under this Act.—(1) If it appears to the Registrar that amendments of the bye-laws of a co-operative society deemed to be registered under this Act are necessary or desirable in the interest of such society in so far as they relate to (i) the objects of such society; (ii) the territorial jurisdiction of such society;

(iii) the persons who can become members of such society or (iv) bringing such bye-laws in conformity with the provisions of this Act or the rules, the Registrar may place before a meeting of the general body of the society held in such manner as may be prescribed by rules, the proposed amendments.

(2) If the amendments are approved by resolutions passed by a majority of the members present and voting at the said meeting either without modifications or with modifications to which the Registrar agrees, the Registrar shall register the amendments.

(3) If the amendments are not approved and registered under sub-section (2), the Registrar shall refer the matter to the State Government.

(4) On receipt of a reference under sub-section (3), the State Government shall after giving the co-operative society an opportunity to be heard, and after holding such inquiry as it deems fit, decide the amendments, if any, to be made in the bye-laws, and the Registrar shall register the amendments in accordance with the decision of the State Government.

(5) The Registrar shall forward to the society a copy of the amendments registered under sub-section (2) or (4) together with a certificate signed by him and such certificate shall be conclusive evidence that the amendments have been duly registered.

116. Orders to be pronounced.—Every order, decision or award made or given by the Registrar, or any officer or other person or a Liquidator, under this Act, shall be pronounced on the day on which the case is finally heard or on some future day of which due notice shall be given to the parties.

117. Powers of civil court.—(1) In exercising the functions conferred on it by or under this Act, the Tribunal, the Registrar, the arbitrator or any other person deciding a dispute and the Liquidator of a co-operative society shall have all the powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1908 (Central Act V of 1908), in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath ;
- (b) requiring the discovery and production of any document ;
- (c) proof of facts by affidavits ; and
- (d) issuing commissions for examination of witnesses.

(2) In the case of any affidavit, any officer appointed by the Tribunal, Registrar, the arbitrator or any other person deciding a dispute or the Liquidator, as the case may be, in this behalf may administer the oath to the deponent.

118. Bar of jurisdiction of courts.—(1) Save as provided in this Act, no civil or revenue court shall have any jurisdiction in respect of,—

- (a) the registration of a co-operative society or bye-laws or of an amendment of a bye-law;
- (b) the removal of a committee;
- (c) any dispute required under section 70 to be referred to the Registrar or the recovery of moneys under section 100;
- (d) any matter concerning the winding up and the dissolution of a co-operative society.

(2) While a co-operative society is being wound up, no suit or other legal proceedings relating to the business of such society shall be proceeded with, or instituted against, the Liquidator as such or against the society or any member thereof, except by leave of the Registrar and subject to such terms as he may impose.

(3) Save as provided in this Act, no order, decision or award made under this Act shall be questioned in any court on any ground whatsoever.

119. Application of Limitation Act.—The provisions of section 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall be applicable to the filing of any appeal or application for revision under this Act.

120. Power to exempt societies from conditions of registration.—Notwithstanding anything contained in this Act the State Government may, by special order published in the official Gazette in each case and subject to such conditions, if any, as it may impose, exempt any co-operative society from any of the requirements of this Act as to registration.

121. Power to exempt societies.—The State Government may, by general or special order published in the official Gazette exempt any co-operative society or any class of societies from any of the provisions of this Act or may direct that such provisions shall apply to such society or class of societies with such modifications as may be specified in the order.

122. Register of Members.—Any register or list of members or shares kept by any co-operative society shall be *prima facie* evidence of any of the following particulars entered therein :—

(a) the date on which the name of any person was entered in such register or list as a member ;

(b) the date on which any such person ceased to be a member.

123 Proof of entries in co-operative societies' books.—(1) A copy of any entry in a book of a co-operative society regularly kept in the course of its business, shall, if certified in such manner as may be prescribed, be received in any suit or legal proceedings as *prima facie* evidence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded in the same manner and to the same extent as the original entry itself is admissible.

(2) A co-operative society may grant copies of any document obtained and kept by it in the course of its business, or of any entries in such document ; and any copy so granted shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document, or the entries therein, as the case may be.

(3) No officer of a co-operative society and no officer in whose office the books of a co-operative society are deposited after liquidation shall, in any legal proceedings to which the society or the Liquidator is not a party, be compelled to produce any of the society's books or documents the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, except under order of the court, Tribunal or the arbitrator made for special cause.

124. Service of notice under the Act.—Every notice or order issued or made under this Act may be served on any person, by properly addressing it to the last known place or residence or business of such person prepaying and posting by registered post a letter containing the notice or order and unless the contrary is proved, such service shall be deemed to have been effected at the time at which the letter would be delivered in the ordinary course.

125. Notice necessary in suits.—No suit shall be instituted against a co-operative society or any of its officers in respect of any act touching the constitution, management or the business of the society until the expiration of two months next after notice in writing has been delivered to the Registrar, or left at his office, stating the

cause of action, the name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left.

126. Acts of co-operative societies not to be invalidated by certain defects.—No act of a co-operative society or any committee or of any officer shall be deemed to be invalid by reason only of the existence of any defect in the Institution of the society or the committee or in the appointment or election of an officer or on the ground that such officer was disqualified for his appointment.

127. Indemnity.—No suit, prosecution or other legal proceedings shall lie against the Registrar or any person subordinate to him or acting on his authority in respect of anything in good faith done or purporting to have been done under this Act.

128. Companies Act, 1956, not to apply.—The provisions of the Companies Act, 1956 (Central Act 1 of 1956), shall not apply to co-operative societies.

129. Powers to make rules.—(1) The State Government may, for the whole or any part of the State and for any class of co-operative societies, after previous publication, by notification in the official Gazette, make rules to carry out the purpose of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the applicant to whom the order refusing the registration of a co-operative society may be sent by the Registrar;
- (b) the procedure and conditions for change in the form and extent of the liability of a co-operative society;
- (c) the matters in respect of which a co-operative society shall or may make bye-laws;
- (d) the procedure to be followed for amendment of bye-laws by a co-operative society;
- (e) the qualifications of individuals who may be admitted as members of co-operative societies;
- (f) the provision for a second or casting vote by the chairman of a meeting of a co-operative society;
- (g) the appointment by a co-operative society of one of its members to represent and vote on its behalf at a meeting of another co-operative society of which it is a member;

- (h) the maximum number of shares or portion of the share capital of a co-operative society which may be held by an individual member ;
- (i) the procedure for the nomination of a person to whom the share or interest of a member on his death may be transferred or the value thereof may be paid ;
- (j) the mode in which the value of a deceased member's share shall be ascertained ;
- (k) the election of members of committee by the general body of a co-operative society ;
- (l) the requisitioning of a general meeting of a co-operative society ;
- (m) the remuneration payable to a new committee or administrators appointed in place of a committee removed by the Registrar ;
- (n) the qualifications and disqualifications for membership of committee of a co-operative society ;
- (o) the qualifications and conditions of service of employees of co-operative societies ;
- (p) the prohibition against officers of a co-operative society being interested in contracts with the society ;
- (q) the matters connected with direct and indirect partnership of the State Government in co-operative societies ;
- (r) the rate at which dividend may be paid by co-operative societies ;
- (s) the objects of the reserve fund of a co-operative society and mode of its investment ;
- (t) the mode of disposal of reserve fund of a co-operative society on its winding up ;
- (u) the extent and conditions subject to which a co-operative society may receive deposits and loans ;
- (v) the restrictions on transactions by a co-operative society with non-members ;
- (w) the restrictions on grant of loans by a co-operative society against its shares ;

- (x) the form and standards of fluid resources to be maintained by co-operative societies accepting deposits and granting cash credits ;
- (y) the levy of audit fees on co-operative societies ;
- (z) the procedure to be followed in proceedings before the Registrar, arbitrator or other person deciding disputes ;
- (aa) the conditions subject to which assets of a co-operative society shall vest in a liquidator and the procedure to be adopted in winding up of a co-operative society ;
- (bb) the procedure for recovery of amounts due or payable to a co-operative society ;
- (cc) the mode of making attachment before judgment ;
- (dd) the procedure for the distraint and sale of property, mortgaged to a Land Mortgage Bank ;
- (ee) the manner of registering the address of a co-operative society ;
- (ff) the account books and registers to be kept by a co-operative society and power of Registrar to direct the accounts and books to be written up ;
- (gg) the manner of certification of entries in the books of a co-operative society and of copies of documents kept by it in the course of its business ;
- (hh) the statements and returns to be furnished by co-operative societies to the Registrar ;
- (ii) the restrictions on persons appearing as legal practitioners ;
- (jj) the inspection of documents and the levy of fees for granting certified copies thereof ; and
- (kk) the matters expressly required or allowed by this Act to be prescribed.

(3) In making a rule under this section, the State Government may provide that a person guilty of a breach thereof shall be punishable with fine which may extend to two hundred rupees.

130. Rules and orders to be laid before State Legislature.—Every notification issued under sections 37, 54 and 132, every order made under sections 120 and 121, and every rule made under section 129 shall, as soon as may be, after it is issued or made be laid before

each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more sessions and if before the expiry of the said period, either House of the State Legislature make any modification in the notification, order or rule or directs that the notification, order or rule shall not have effect and if the modification or direction is agreed to by the other House, the notification, order or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be.

131. Repeal and savings.—The Bombay Co-operative Societies Act, 1925 (Bombay Act VII of 1925), as in force in the Bombay Area, the Madras Co-operative Societies Act, 1932 (Madras Act IV of 1932) and the Madras Co-operative Land Mortgage Banks Act, 1934 (Madras Act X of 1934), as in force in the Madras Area, the Coorg Co-operative Societies Act, 1936 (Coorg Act II of 1936), as in force in Coorg District, the Mysore Co-operative Societies Act, 1948 (Mysore Act LII of 1948), as in force in the Mysore Area the Hyderabad Co-operative Societies Act, 1952 (Hyderabad Act XVI of 1952), and the Hyderabad Co-operative Land Mortgage Banks Act, 1349 F (Hyderabad Act II of 1349 Fasli), as in force in the Hyderabad Area, are hereby repealed :

Provided that any co-operative society existing on the date of commencement of this Act which has been registered or deemed to be registered under any of the aforesaid repealed enactments shall be deemed to be registered under this Act; and the bye-laws of such society shall so far as they are not inconsistent with the provisions of this Act or the rules made thereunder, continue in force until altered or rescinded in accordance with the provisions of this Act and the rules made thereunder :

Provided further that subject to the preceding proviso section 6 of the Mysore General Clauses Act, 1899 (Mysore Act III of 1899) shall be applicable in respect of the repeal of the said enactments and sections 8 and 24 of the said Act shall be applicable as if the said enactments had been repealed and re-enacted by a Mysore Act.

132. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the provisions of the Acts in force immediately before the commencement of this Act, the State Government, may, by notification in the Official Gazette, make such provisions as appear to it to be necessary or expedient for removing the difficulty.

(2) If any difficulty arises in giving effect to the provisions of this Act (otherwise than in relation to the transition from the provisions of the Acts in force before the commencement of this Act), the State Government may by notification make such provisions, not inconsistent with the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty.

By Order and in the name of the Governor of Mysore,

R. P. VASUDEO,
*Secretary to Government,
Law Department.*

WD 3369—GPB—6,150—12-12-60

**THE MYSORE CO-OPERATIVE SOCIETIES
RULES, 1960.**

THE MUSEUM OF COMPARATIVE ZOOLOGY
HARVARD UNIVERSITY
CAMBRIDGE, MASS.

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THE MYSORE CO-OPERATIVE SOCIETIES RULES, 1960

CHAPTER I.

PRELIMINARY.

1. These Rules may be called the Mysore Co-operative Societies Rules, 1960.

2. Definitions : In these Rules, unless the context otherwise requires—

(a) 'Act' means the Mysore Co-operative Societies Act, 1959; and 'Section' means a section of the Act;

(b) "Co-operative Year" means the year ending with the 30th day of June or in the case of any co-operative society or class of co-operative societies, the accounts of which are made up to any other date, with the previous sanction of the Registrar, the year ending with such date;

(c) "decree" means any order, decision or award referred to in Section 101;

(d) "decree-holder" means any person holding a decree as defined in clause (c);

(e) "judgment-debtor" means any co-operative society against which or any person against whom a decree as defined in clause (c) has been obtained;

(f) "person" includes the State Government and a co-operative society;

(g) "Recovery Officer" means a person subordinate to the Registrar, and empowered to exercise the powers of the Registrar under Section 101;

(h) "Sale Officer" means an officer empowered by the Registrar by general or special order, to attach and sell the property of judgment-debtors or to execute any decree by attachment and sale of property ;

(i) "Society" means a Co-operative Society ;

(j) Other words and expressions defined in the Act shall have the meanings assigned to them in the Act.

CHAPTER II.

REGISTRATION OF CO-OPERATIVE SOCIETIES AND THEIR BYE-LAWS.

3. *Application for Registration and Procedure.*—(1) Every application for the registration of a co-operative society under Section 6 shall contain the particulars specified in and be in the form given in Schedule A appended to these Rules. The application shall also mention the name and address of one of the applicants to whom any communication may be sent by the Registrar.

(2) In cases where the application for registration under Section 6 is signed by a person duly authorised on behalf of any co-operative society, which is one of the applicants, a copy of the resolution of the committee of such society giving such authority shall accompany the application.

(3) The Registrar may, for the purpose of satisfying himself of the matters specified in Section 7, call for such further particulars or make such inquiry as he may deem necessary. He may permit the applicants, if so desired by them, in writing, to make such alterations or additions to the proposed bye-laws submitted with the application, in order to make them conform to the provisions of the Act, and the Rules thereunder.

(4) If the Registrar refuses to register a co-operative society, he shall communicate the order of refusal by registered post to the applicant mentioned in the application under sub-rule (1).

4. *Change of form and extent of liability.*—(1) A change in the form or extent of liability of a co-operative society shall be effected by a resolution passed at a general meeting of the society.

(2) At least fifteen days' clear notice of such meeting shall be given to every member of the co-operative society, which shall be accompanied by a copy of the proposed resolution.

5. *Subject-matter of bye-laws.*—(1) The bye-laws of a co-operative society shall provide for the following matters, namely:—

- (a) the name and address of the society;
- (b) the area of its operations;
- (c) the objects of the society;
- (d) the manner in which funds may be raised and the maximum share capital which an individual member may hold;
- (e) the nature and extent of the liability of the members;
- (f) the extent to which the society may borrow funds and the rate of interest payable on such funds;
- (g) the entrance and other fees to be collected from members;
- (h) the purposes for which its funds may be applied;
- (i) the terms and conditions of admission of members and their rights and liabilities;
- (j) the mode of holding meetings and of issue of notices;
- (k) the mode of appointment and removal of the committee and other officers, the duties and powers of the committee and such officers and their terms;
- (l) the disposal of net profits;
- (m) the preparation and submission of the annual statement specified by the Registrar and the publication of the same;
- (n) the mode of custody and investment of the funds and the mode of keeping accounts;
- (o) the constitution of an "Agricultural Credit Stabilisation Fund" in case of every co-operative society, which facilitates the operations of affiliated agricultural co-operative credit societies and which has received financial assistance from the State Government;
- (p) in the case of credit societies—
 - (i) the maximum loan admissible per member;
 - (ii) the maximum rates of interest on loans to members;
 - (iii) the conditions on which loans may be granted to members;

- (iv) the procedure for grant of loans and advances and for the grant of extension of time for the repayment of such loans and advances ;
- (v) the consequences of default in payment of any sums due ; and
- (vi) the circumstances under which a loan may be recalled.

(q) In the case of non-credit societies (including productive and distributive types), the mode of conducting business, the procedure to be followed in purchasing and selling articles, the procedure for stock-taking, the responsibility for the stock of the society, and other allied matters.

(2) A society may make bye-laws for the following matters, namely—

(a) The circumstances under which withdrawals from membership may be permitted ;

(b) the procedure to be followed in cases of withdrawal, ineligibility and death of members ;

(c) the conditions, if any, under which the transfer of share or interest of a member may be permitted ;

(d) the method of appropriating payments made by members from whom moneys are due ;

(e) the authorisation of an officer to sign documents and to institute and defend suits and other legal proceedings on behalf of the society ;

(f) the method of recruitment, the conditions of service and the authority competent to fix, revise or regulate the scales of pay and allowances of paid officers and employees of the society and the procedure to be followed in the disposal of the disciplinary cases against them ; and

(g) whether the society is to be affiliated to any supervising union or a financing bank or other institution ; and if so, the charges to be paid in respect of such affiliation.

(3) The bye-laws of a co-operative society may provide for such matters not specified in sub-rules (1) and (2) as are incidental to the organisation of the society and the management of its business.

6. *Procedure regarding amendment of bye-laws.*—(1) Where a co-operative society proposes to amend its bye-laws, no such amendments shall be made save by a resolution passed by a two-thirds majority of the members present and voting, at a general meeting of the society ;

(2) No such resolution shall be valid, unless notice of the proposed amendment has been given to the members of the society in accordance with the bye-laws ;

(3) In every case in which a society proposes to amend its bye-laws, an application shall be made to the Registrar together with—

(a) a copy of the resolution referred to in sub-rule (1),

(b) such number of copies of the proposed amendment as may be specified by the Registrar in this behalf,

(c) a certificate signed by the Presiding Authority of the meeting that the procedure specified in sub-rule (1) and sub-rule (2) and in the bye-laws has been followed ; and

(d) any other particulars that may be required by the Registrar in this behalf.

(4) Every such application shall be made within thirty days from the date of the general meeting at which such amendment was passed :

Provided that the Registrar may condone the delay, if any, for sufficient cause.

(5) When the Registrar registers an amendment of the bye-laws of a co-operative society he shall send a copy thereof to the financing bank, if any, to which the co-operative society is affiliated.

CHAPTER III.

MEMBERS OF CO-OPERATIVE SOCIETIES : THEIR RIGHTS AND LIABILITIES.

7. *Procedure to enforce prohibition of membership in two or more credit societies.*—(1) Where a person has, without the sanction of the Registrar and contrary to the law then in force become a member of two or more primary co-operative credit societies, before the commencement of the Act, either or all of such societies shall be bound

to remove him from membership upon a written requisition from the Registrar to that effect:

Provided that before making the requisition the Registrar shall give a month's notice in writing to such person, calling upon him to select the society in which he wishes to continue as member, and consider the objections, if any, raised by him in the matter.

(2) The Registrar may permit persons who are members of more than one primary co-operative credit society to continue their membership in such societies for a period to be fixed by him, but only for the purpose of discharging their obligations to such societies and not for contracting fresh obligations or for serving on the committees of management of such societies.

8. *Admission of members before the general meeting of a society.*—No co-operative society shall admit members within thirty days prior to the date of its annual general meeting.

9. *Chairman to have a second or casting vote.*—In the event of an equality of votes, the Chairman of a meeting of a co-operative society shall have a second or casting vote.

10. *Disabilities of a defaulting member.*—(1) No member of a society, who is in arrears to the society in respect of any loan taken by him, for a period exceeding three months, shall be appointed to represent the society in any other co-operative society and to vote on its behalf in such other co-operative society ;

(2) Where a member of a society so appointed falls in arrears to the society for the period specified in sub-rule (1) subsequent to his appointment, he shall cease to be a representative of the society as from the end of the said period.

11. *Appointment of nominees.*—(1) A member of a co-operative society may nominate a person or persons to whom, in the event of his death, his share or interest in the capital of the society shall be transferred or the value thereof or any other moneys due to him from the society shall be paid. Such member, may, from time to time, revoke or vary such nomination.

(2) When a member nominates more than one person in respect of any shares held by him, he shall, as far as practicable, specify the amount to be paid or transferred to each nominee in terms of a whole share.

(3) A nomination made by a member under this rule shall not be valid and shall not, in the event of the death of the member, have effect, unless—

- (a) it is made in writing and is signed by the member in the presence of at least two witnesses; and
- (b) it is registered in the books of the society kept for the purpose.

12. *Value of share of a member.*—(1) If a member resigns his membership of a co-operative society or is removed under Rule 7, or dies or otherwise ceases to be a member, the sum representing the value of his share or interest in the capital of the society to be paid to him or his nominee, heir or legal representative, as the case may be, shall be ascertained in the manner following:—

- (i) In the case of a society with unlimited liability, it shall be the actual amount received by the society in respect of such share or interest;
- (ii) In the case of a society with limited liability, it shall be the amount arrived at by a valuation based on the financial position of the society as shown in the last audited balance sheet preceding the resignation, removal or death, as the case may be:

Provided that the amount so ascertained shall not exceed the actual amount received by the society in respect of such share or interest.

(2) In case of a dispute between a member or his nominee, heir or legal representative and the society regarding the value of the share or interest in the share capital, the decision of the Registrar thereon shall be final.

CHAPTER IV.

MANAGEMENT OF CO-OPERATIVE SOCIETIES.

13. *Election of the members of the Committee by the general body.*—(1) A co-operative society may, for the purpose of election of members to the committee, divide its membership into different groups on a territorial or any other basis.

(2) The bye-laws of such a society may specify the number or proportion of the members of the committee, who may be elected

to represent each such group on the committee and may specify further that such representatives may be elected—

(a) by all the members of the society,

or

(b) by only that particular group of members of the society to which such representatives belong.

(3) The election of the members of the committee shall be held on or before the date specified in the bye-laws, for the expiry of the term of office of the members. If no such date is specified in the bye-laws, the term of office of the members of the committee shall be deemed to expire at the time of the annual general meeting and the election of the new members shall be held at such annual general meeting :

Provided that the Committee whose term of office is deemed to so expire, shall continue in office till the new Committee is elected and shall thereafter hand over charge of the office to such new Committee.

14. Procedure for election of members of the committee.—

(a) The election of members of the committee of management of a co-operative society other than those specified in clause (b) shall be held in the following manner :—

(1) A list of members, who are in default to the society in respect of their dues for a period exceeding three months shall be prepared and put on the notice board of the society one month before the date fixed for elections. No such member shall be eligible to be elected to the committee of management or to stand as candidate for such committee, unless he pays up the amounts overdue, at least fifteen days before the date of the meeting :

Provided that the Registrar may exempt from the operation of this sub-rule, such of the rural societies and also such of the urban societies, which are considered by him to be in need of such exemption on account of the backwardness of a majority of its members.

(2) A member desirous of standing as a candidate to the committee of management shall give notice in writing of his desire to the secretary of the society at least seven clear days before the meeting. A member may nominate any other member or members, who are qualified to be chosen for the committee. The nomination paper shall indicate that the consent of the candidates proposed has

been obtained in writing and such writing, together with the nomination paper, shall be delivered to the Secretary of the society at least five clear days before the meeting. The names of candidates, whose nomination papers are not accompanied by the writing of the candidate showing consent or received after the prescribed time, shall not be included in the ballot paper or voting slip.

(3) The notices given by the members intimating their desire to stand as candidates and the nomination papers delivered under sub-rule (2), shall be scrutinised by the Committee of management on a day to be fixed by them, which shall be at least four clear days before the meeting of which intimation shall be given to the members desirous of standing as candidates. It shall be lawful for the candidates to be present at the scrutiny. The Committee shall reject a notice or a nomination paper which is not in accordance with sub-rule (2), or if the proposed candidate is disqualified under these rules to be chosen to the Committee.

(4) If the number of qualified candidates is equal to the number of members to be elected; the Committee shall intimate this fact to the Chairman of the Annual General Meeting who shall read at the meeting the names of the qualified candidates and shall declare all of them elected.

(5) If the number of candidates duly qualified is greater than the number of members to be elected, then, the names of all such candidates shall be written, typed, or printed on ballot papers or voting slips and a copy thereof shall be published on the notice board of the Society at least three days before the date fixed for the Annual General Meeting.

(6) A register shall be kept at the place of the meeting and every member that attends the meeting shall, after identification, sign in such register before he enters the place of the meeting. He shall be given an identification slip. || NOTE

(7) The time of poll shall be decided by the general body at the meeting or if such power is delegated to the committee by the general body, the committee may fix the time of poll. The poll shall be held only during the time so decided or fixed.

(8) The general body shall appoint as many Polling Officers to conduct the poll and as many Tellers to count the votes as may be necessary.

(9) On a member producing the identification slip, the Polling Officer shall issue to him a ballot paper or voting slip, which bears the seal of the society and the initials of the Polling Officer.

(10) Canvassing or soliciting votes immediately prior to or during the conduct of elections shall be strictly prohibited within the place where the polling is being held.

(11) Voting shall be by ballot and voters shall make a mark (X) against the names of candidates whom they wish to elect, fold the ballot paper or voting slip, and deposit it in the ballot box. In the case of an illiterate or physically disabled voter, who requires help, the Polling Officer shall help in making marks against the names of the candidates according to the desire of such voter.

(12) After all the voters present have voted or after the time fixed for poll has expired, whichever is earlier, the Polling Officer shall close the poll and deliver the ballot box to the Tellers.

(13) Tellers shall arrange all ballot papers or slips :

(a) They shall reject a ballot paper or voting slip—

(i) if it bears any signature to identify the voter ;

(ii) if it does not bear the seal of the society or the initials of the Polling Officer ;

(iii) if it contains no marks indicating a vote ;

(iv) if it contains more marks than the number of seats to be filled.

(b) A mark made in a ballot paper or voting slip in a manner such that it is ambiguous to which candidate the vote is given, shall be rejected :

7 | Provided that other correctly made marks, if any, on such ballot paper and voting slip shall be counted.

(14) Soon after the counting of votes is over, the candidates who have secured the maximum number of votes shall be declared elected either at the meeting or their names published on the notice board of the Society under the signature of the Chairman of the meeting.

(15) The Chairman of the meeting shall arrange to keep in safe custody in the society in a sealed box the ballot papers or voting slips and their counterfoils, the register containing the signatures of members that attended the meeting and the report of the Tellers. These may be destroyed three months after the date of the meeting ;

(16) The State Government may exempt from the operation of all or any of these sub-rules or apply all or any of these sub-rules with such modifications as may be necessary, to any society or any class of societies for such period as Government may deem fit.

(b) (1) For the conduct of elections to the Committee of Management of—

- (i) every co-operative society whose area of operation extends to one or more districts,
- (ii) every marketing co-operative society,
- (iii) every society undertaking processing of agricultural produce,
- (iv) every land mortgage bank,
- (v) any other co-operative society or classes of co-operative societies which may be notified by Government in this behalf,

the Registrar shall by notification appoint a Returning Officer not below the rank of a Gazetted Officer immediately after the close of the co-operative year in respect of such societies.

(2) Such Returning Officer shall hold and conduct the elections in the manner prescribed under sub-rule (a) of this rule and for the purpose of these elections he shall exercise all the powers and perform all the duties of the committee of management and of the general body under the said sub-rule.

(3) The committee of management and every officer of the co-operative society concerned shall be bound to render every assistance to the Returning Officer in such conduct of elections and shall make available every record that may be required by the Returning Officer for this purpose.

(4) Notwithstanding anything contained in sub-rule (3) of Rule 13, in respect of any society mentioned in clause (1) of sub-rule (b) if the Registrar is satisfied that there exist circumstances which in his opinion require the administration and management of the society and its records and properties being taken charge of by the Returning Officer in order that after the elections the charge of such administration and management, records and property be handed over to the new committee of management, the Registrar may direct in writing the Returning Officer to assume charge of such administration, management, records and property during the election. In such cases the Returning Officer shall after the elections hand over charge of the administration, management, records and property of the society to the new committee.

15. *Remuneration payable to new committee or administrator.*—(1) The remuneration payable to a new committee or Administrator appointed under Section 30 of the Act shall be such as the Registrar may, from time to time, determine.

(2) The amount of such remuneration and the other costs, if any, incurred in relation to the management of the co-operative society by the committee or the Administrator shall be payable from the funds of the society.

16. *Disqualification for membership of committee.*—(1) No member of a co-operative society shall be eligible for appointment as a member of the committee of management of such society, if—

- 16(1)(c))
- (a) he is in default to the society in respect of any loan taken by him, for such period as is specified in the bye-laws of the society, or in any case for a period exceeding three months ; or
 - (b) he has directly or indirectly, any interest in any subsisting contract made with the society or in any property sold or purchased by the society or in any other transaction of the society, except in any investment made in, or any loan taken from the society ;
 - (c) he is a paid employee of any society or of its financing bank, provided that this shall not apply to a paid employee of a co-operative society consisting exclusively of paid employees of co-operative societies ;
 - (d) he is a near relation of a paid employee of the society ;
- Explanation.*—“Near Relation” here means father, mother, husband, wife, son, daughter, undivided brother or unmarried sister, or such other relation as may be declared by the Government to be a near relation for purposes of this clause.
- (e) if he is employed as paid legal practitioner on behalf of the society or accepts employment as legal practitioner against the society ;
 - (f) if he has been removed from office under clauses (b) and (c) of sub-rule 2 :

Provided that this disqualification shall cease to operate after the period, if any, fixed in the order or after the expiry of 3 years from the date of the removal or earlier by an order of Government.

(2) If any member of the committee of a co-operative society during the term of his office—

- (a) becomes subject to any disqualification specified in clauses (a) to (e) of sub-rule (1) or
- (b) has acted or has been acting fraudulently or with gross negligence or in contravention of the bye-laws and rules

of the society or without the sanction of the committee of the management when such sanction is necessary or contrary to the resolution of the committee of management or in any way prejudicial to the best interests of the society or

- (c) has acted or has been acting persistently against the lawful orders issued under the Act and the rules thereunder

the Registrar either on a report made to him or otherwise shall order the removal of such member and may also in cases falling under clauses (b) and (c) disqualify him from serving on the committee or holding any office in the society for such period not exceeding three years as he may deem necessary: Provided that the Registrar shall give—

- (i) such member an opportunity to explain his conduct, and
- (ii) the committee of management of the society concerned an opportunity of being heard;

Provided further that the objections to the continuance of such member on the committee or to his election thereto shall be recorded and communicated to the member concerned and the committee of the society.

(3) Any person aggrieved by the order of the Registrar under sub-rule (2) may within a period of one month from the date of communication of the order appeal to the Government and the order of the Government in appeal shall be final.

17. *Officers and employees of co-operative societies—qualifications, etc.*—(1) Subject to the budget allotment, sanctioned by the general body, the managing committee shall prescribe from time to time the strength of the establishment of the society and the scale of pay admissible to each member thereof with the prior approval of the Registrar.

(2) No persons shall be eligible for appointment to the posts mentioned below unless he possesses the qualification specified against them:

A. Secretary, Assistant Secretary or Manager:—

(i) Degree of B.A. or B.Com. or B.Sc., L.Com., and D.Com., or degree of any recognised university in the case of societies having a working capital of rupees one lakh or more and SSLC (completed or eligible for admission to University or Government service) in others; and

(ii) a pass in the Government Technical Examinations in Book-keeping, Banking, Co-operation and Auditing or the examination in these subjects or examinations conducted by the Regional Co-operative Schools provided that a person who has taken the B.Com. degree shall be exempted from passing these examinations.

B. Accountants, Clerks, Ledger-keepers, Sales Clerks and Shroffs :—

(i) SSLC and

(ii) a pass in the examination in Book-keeping, Banking, Co-operation and Auditing held by Government or examinations conducted by the Regional Co-operative Schools :

Provided that no person who is already in the employment of a co-operative society before the coming into force of this rule shall be required to acquire the qualification pertaining to any of the posts mentioned in A & B above :

Provided further that the qualifications mentioned in this rule shall not be applicable for persons to be employed in Co-operative Societies other than the following :—

- (a) Co-operative societies whose jurisdiction extend to a taluk or beyond a taluk,
- (b) Urban co-operative banks,
- (c) Consumers Co-operative Societies,
- (d) Processing Societies.

(3) No appointment by direct recruitment shall be made except by calling for applications from eligible candidates by notifying the same ; provided that, this restriction shall not apply to the appointment of an officer whose services have been lent by the Government.

18. (a) Conditions of service of officers and employees of Co-operative Societies.—(1) *Age limit for entry into service.*—Except with the previous permission in writing of the Registrar, no person, whose age exceeds thirty years, shall be appointed to any post in the service of a co-operative society :

Provided that this restriction shall not apply to a Government servant whose services are lent to the society or to a person who is already in service, of any co-operative society, if his age at the time he entered such service was in accordance with the rules then in force applicable to the area concerned.

(2) *Age of retirement.*—The age of retirement of a person who is appointed to a permanent post in the service of a co-operative society shall be 55 years of age :

Provided that, with the previous approval of the Registrar, a person after retirement, may be re-employed for a period not exceeding five years, if his services are specially required, in the interests of the society.

(3) *Leave*.—Every employee of the society shall be eligible for fifteen days casual leave in a year and one month's privilege leave for every eleven months of duty :

Provided that not more than two months' such leave shall accrue to a person at any time and provided further no employee shall claim leave as a matter of right at any time.

(4) *Gratuity*.—When an employee who has put in at least ten years' satisfactory service is retired from service, or if he dies while in service, the managing committee, may, with the approval of the general body, grant to him or to his heirs as the case may be a gratuity not exceeding one month's pay for every year of service :

Provided that in no case shall it exceed fifteen months pay.

(5) *Service Register*.—The society shall maintain a record of services of every employee as also of the leave availed of by him from time to time. All changes affecting the rank, emoluments, transfers from one branch to another and other allied matters, shall be recorded in this register and attested by the President of the society in the case of the Secretary, and by the Secretary in the case of the other employees.

(6) *Use of official information*.—No employee shall, except when generally or specially empowered or permitted by the managing committee, communicate directly or indirectly, to any other person or institution or to the Press, any document or information which has come to his possession in the course of his official duties, or has been prepared and collected by him in the course of such duties, whether from official sources or otherwise.

(7) *Pecuniary relation*.—No employee shall have pecuniary transactions with individuals or institutions coming in contact with him in the course of his official duties or accept directly or indirectly either on his own behalf or on behalf of any other person any gift, gratuity, or reward from any person with whom he may have to deal in his official capacity :

Provided that this rule shall not apply to the borrowings by an employee on the security of his deposits, savings, insurance policy or other documents from other institutions.

(8) *Employees and Elections.*—No employee of the society shall canvas or otherwise use his influence in any election of the members to the managing committee or other offices of the society.

(9) *Punishments.*—Any employee who contravenes the provisions of rules 6, 7 and 8 shall be liable for such punishment as the managing committee may determine.

(10) Any member of the establishment may, for good and sufficient cause, be punished. The managing committee or the person authorised by such committee shall be the authority competent to censure, fine, suspend, reduce, dismiss or withhold the increment of the employee of the society.

(11) No kind of punishment shall be awarded to any employee unless he has been informed in writing of the grounds on which it is proposed to take action against him and he has been afforded a reasonable opportunity to defend himself.

(12) An appeal shall lie to the general body of the society by any employee who has been punished.

(b) *Appointment of Secretary by certain classes of Societies.*—Every Co-operative Society whose area of operation extends beyond a district, every District Co-operative Central Bank, every Marketing Society, every Consumers' Society, every Processing Society, and every Land Mortgage Bank shall appoint a paid Secretary approved by the Registrar. The services of such a Secretary shall not be dispensed with without the previous sanction of the Registrar.

19. *Prohibition against being interested in contracts, etc.*—(1) No officer of a co-operative society shall have any interest, directly or indirectly otherwise than as such officer,

(a) in any contract made with the society; or

(b) in any property sold or purchased by the society; or

(c) in any other transaction of the society except as investment made or as loan taken from the society or the provision of residential accommodation by the society to any paid employee of the society.

(2) No officer of a co-operative society shall purchase, directly or indirectly, any property of a member of the society, sold for the recovery of his dues to the society.

CHAPTER V.

PROPERTIES AND FUNDS OF CO-OPERATIVE SOCIETIES.

20. *Co-operative Education Fund.*—(1) There shall be constituted for the State, a Fund called the "Co-operative Education

Fund ", which shall be administered by the State Co-operative Union, or, if there is no such Union, by a Committee appointed by the Registrar.

(2) Payments of such percentage of the net profits of every Co-operative Society as may be specified in its bye-laws shall be credited to the "Co-operative Education Fund" as the contribution made by such society. Such contribution payable by a society shall be a charge on the funds of the society and shall be recoverable in the manner provided in section 101.

(3) The State Co-operative Union or if there is no such Union, the committee appointed by the Registrar under sub-rule (1) shall make regulations with the approval of the Registrar, for the utilisation and administration of the Fund and such regulations shall, among other things, provide for contribution to the All India Co-operative Union.

21. *Disposal of un-appropriated profits.*—Any profits not appropriated in the manner specified in the Act, the Rules and the bye-laws shall forthwith be credited by a Co-operative Society to its reserve fund.

22. *Manner of determining net profits under sub-section (1) of Section 57 and rate at which dividend may be paid by Co-operative Societies.*—(1) In determining net profits from which not less than 25 per cent are to be taken to the reserve fund under sub-section (2) of Section 57, the following procedure shall be adopted :—

- (a) All interest accrued due, but not actually realised shall be deducted from the gross profits for the year, before the net profits are arrived at. So much of the accrued interest that has been so deducted from the profits of the year, as are actually recovered during the subsequent year, may be added to the profits of the subsequent year. The Registrar may, in special cases and after due enquiry, permit a society to treat interest accrued due for a period not exceeding one year as profits ; but, if the amount so permitted to be treated as profits is not actually recovered during the subsequent year, it shall be deducted from the profits of such subsequent year before the net profits of that year are arrived at.
- (b) All interest paid and due for the year shall be charged off to profit.
- (c) All management expenses paid and due for the year shall be charged off to profit.

- (d) All rents, rates, taxes, subscriptions and insurance charges paid and due for the year shall be charged off to profit.
- (e) Audit fee due for the year in accordance with the scale fixed by Government shall be charged off to profit.
- (f) Adequate provision for depreciation on furniture, stock, buildings, land and other property owned by the society shall be made in accordance with the provisions of the bye-laws and charged off to profit.
- (g) In the case of Trading Co-operative Societies, Marketing Co-operative Societies, Industrial Co-operative Societies and Processing Co-operative Societies provision shall also be made for contribution to the Trade fluctuation Fund in pursuance of the bye-laws to be framed for this purpose.
- (h) Any other items notified by the Registrar as being a charge on the profits of any particular class or type of societies shall also be charged off to profit during the audit of such class or type of societies.

(2) Except with the special sanction of Government no Co-operative Society shall pay its share holders a dividend exceeding six and a quarter per cent in any year on the paid up share capital in the name of each share holder ; Provided that bonus, if any, paid on shares shall also be subject to the overall limitation mentioned in this sub-rule.

23. *Object and investment of Reserve Fund.*—(1) A reserve fund maintained by a Co-operative Society shall belong to the society and is intended to meet unforeseen losses. It shall be indivisible and no member shall have any claim to a share in it.

(2) A Co-operative Society shall not invest or deposit its reserve fund except in one or more of the modes mentioned in clauses (a) to (d) of Section 58 of the Act :

Provided that the Registrar may, by general or special order, permit any co-operative society or any class of co-operative societies to invest the reserve fund or a portion thereof on its own business, or in the construction or purchase of buildings or lands required for carrying on the objects of the society.

(3) No Co-operative Society whose reserve fund has been separately invested or deposited shall draw upon, pledge or otherwise employ such fund, except with the sanction of the Registrar previously obtained in writing.

24. Disposal of Reserve Fund on winding up of a Co-operative Society.—(1) On the winding up of a co-operative society, the reserve fund together with other funds constituted by the society in accordance with its bye-laws, shall be applied by the liquidator to the discharge of such liabilities of the society as may remain undischarged out of the assets of the society, in the following order, namely :

- (a) the debts of the society ;
- (b) the dividend upon paid-up share capital at rates not exceeding six per cent for any period or periods for which dividend has not been paid ;

or such dividend upon paid-up share capital as will bring dividend to the maximum rate for any period for which the dividend at a rate lower than the maximum specified has been paid. No dividend shall, however, be paid on share capital, if the bye-laws of the society do not provide for payment of dividend.

(2) Any surplus funds remaining after the payment mentioned in sub-rule (1) shall be utilised in the following manner and subject to the following conditions, namely :—

- (a) in the case of a Co-operative Society other than a financing bank—

- (i) the surplus funds shall be applied to such object of public utility as may be selected by the general body of the dissolved society at a meeting and approved by the Registrar. It shall be competent for the liquidator to constitute a trust to carry out such object and to require the general body to select a trustee or trustees from among the ex-members or other persons. If the general body does not select a trustee or trustees or if the selection of a trustee or trustees by the general body is not acceptable to the liquidator, the liquidator may himself appoint a trustee or trustees. The trustee or trustees, as the case may be, shall execute a deed in such form as the Registrar may from time to time specify. A trust created under this sub-clause shall be governed by the provisions of the law relating to public charitable trusts, for the time being in force.

- (ii) If within thirty days, after the issue of notice by the liquidator appointed to wind up the affairs of the society, the general body fails to make any selection that is approved by the Registrar, the Registrar may

place the surplus funds on deposit or otherwise with a financing bank working in the area in which the society which is being wound up carried on its operations, until a new co-operative society with similar objects is registered in such area in which case the funds shall be credited to the reserve fund of such society. If in the opinion of the Registrar, there is no prospect of a new society being formed in such area within a reasonable time, the Registrar shall assign the amount to the bad debt reserve or the reserve fund of the financing bank working in such area.

- (b) In the case of financing bank, the surplus funds shall be assigned by the Registrar to the reserve fund or funds of any other financing bank or banks to which the societies working in the area in which the financing bank which is being wound up carried on its operations, are affiliated. If there is no financing bank working in such area, the Registrar shall invest the amount in the State Co-operative Bank, until a new financing bank is formed in such area, in which case the funds shall be credited to the reserve fund of such financing bank.

25. Borrowings by Co-operative Societies.—(1) Any society with limited liability other than the Mysore State Co-operative Apex Bank, Ltd., District Co-operative Central Banks, the Land Mortgage Co-operative Societies and banks shall, without the previous sanction of the State Government, receive deposits and loans whether from members or non-members exceeding in total 10 times the total amount of its paid up share capital, accumulated reserve fund and building fund *minus* accumulated losses.

(2) Except with the previous sanction of Government :—

- (a) The Mysore State Co-operative Apex Bank, Ltd., shall not receive deposits and loans whether from members or non-members exceeding in total 15 times the total amount of its paid up share capital, accumulated reserve fund and building fund *minus* accumulated losses.
- (b) The District Co-operative Central Banks shall not receive deposits and loans whether from members or non-members exceeding in total 12 times the total amount of its paid-up share capital, accumulated reserve fund and building fund *minus* accumulated losses.

(c) The Mysore Central Co-operative Land Mortgage Bank, Ltd., and the other primary Land Mortgage Societies and banks shall not receive deposits and loans whether from members or non-members exceeding in total 20 times the total amount of its paid-up share capital accumulated reserve fund and building fund *minus* accumulated losses.

(3) In calculating the total amount of liability for the purposes of this rule, in the case of an agricultural purchase and sale society or a multipurpose society, specified in this behalf by the Registrar by general or special order, a sum equal to the amounts borrowed by such society from a central financing agency for giving advances on the security of agricultural produce shall be deducted from the amount of the actual liability of such society.

(4) In calculating the total amount of liability for the purposes of this rule, in the case of a District Co-operative Central Bank or a Land Mortgage Co-operative Society a sum equal to the face value of the gilt-edged securities owned by such bank, up to an amount equal to twice the amount of the paid up share capital of the bank shall be deducted from the amount of the actual liabilities of such bank provided that the said securities are deposited in the custody of the Mysore State Co-operative Apex Bank, Ltd. The State Government, may, if in their opinion any such bank is well managed and for special reasons, exempt it from the foregoing provisions of deposit of securities.

(5) A co-operative society which accepts deposits and loans from members only and has no liability to any person other than the members, may receive such deposits and loans in excess of the limit referred to in sub-rule (1) if the excess amount is deposited in a co-operative bank to which it is affiliated or is invested in Government or other securities specified in section 20 of the India Trusts Act, 1882 :

Provided that the amount so deposited or invested, or any part thereof, is not withdrawn or otherwise utilised for the repayment of the deposits accepted in excess of the aforesaid limit.

26. *Transactions with non-members.*—Save as otherwise provided for in section 59 and section 60 and except with the general or special sanction of Government no Co-operative Society shall enter into any credit transaction with a person other than a member, unless—

(a) the bye-laws of the society permit it to enter into such transactions, or

- (b) the previous sanction of the Registrar has been obtained by the society.

27. *Restrictions on grant of loans by a Co-operative Society.*—

(1) No Co-operative Society shall grant loans or make advances against the security of its own shares.

(2) The total amount of loans granted by a Co-operative Society to the members of its Committee of Management and outstanding against them in the aggregate shall not at any time exceed twenty-five per cent of the total of all loans granted by the society and outstanding against its members at any time.

28. *Maintenance of fluid resources.*—Every Co-operative Society accepting deposits and granting cash credits shall maintain fluid resources in such form and according to such standards as may be fixed by the Registrar, from time to time, by general or special order.

28-A. *Declaration by a member borrowing loans from certain societies.*—(1) A declaration under clause (1) of sub-section (1) of section 33 shall be in form I.

(2) A register of such declarations shall be kept by the society in form II.

CHAPTER VI.

AUDIT.

29. *Subject matter of audit.*—(1) The audit under sub-section (1) of section 63 shall include, in addition to the matters specified in sub-section (2) of the said Section, the following particulars :—

- (a) a verification of the balances at the credit of the depositors and creditors and of the amounts due by the society's debtors, of such proportion thereof as may be fixed by the Registrar ;
- (b) an examination of the transactions of the members of its committee ;
- (c) an examination of the statement of accounts of the society to be prepared by the committee in such form as may be determined by the Registrar ;

- (d) a certification of the profits actually realised; and
- (e) any other matter that may be directed by the Registrar.
- (2) The statement of accounts as audited, under sub-rule (1) together with the modifications, if any, made therein by the Registrar, shall be final and binding on the society.

30. *Audit fees.*—(1) Every Co-operative Society shall pay to the State Government a fee for the audit of its accounts for each Co-operative year in accordance with the scale fixed by the Registrar, with the previous approval of the State Government in respect of the class of societies to which it belongs.

(2) All fees payable under this rule shall be recoverable in the manner specified in Section 104 of the Act.

(3) The Registrar may, subject to such conditions as may be laid down by the State Government remit the whole or any part of the fees payable under sub-rule (1) by a particular society or by a particular class of societies for any year or other specified period.

CHAPTER VII.

SETTLEMENT OF DISPUTES.

31. *Procedure for reference and arbitration.*—(1) A reference to the Registrar of any dispute under Section 70 of the Act shall be in writing and stamped with such stamp and in accordance with such scale as may be notified by Government in this behalf.

(2) The period of limitation for referring a dispute touching the constitution, management or the business of a co-operative society to the Registrar under sub-section 70 of the Act, shall be six years from the date the cause of action :

Provided that a dispute between (i) the society, or its committee, and (ii) any past committee, any past officers, past agent, or past employees, heirs or legal representatives of any deceased officer, deceased agent or deceased employee of the society shall, where the dispute relates to any act or omission on the part of the society or its committee, or any past committee, any past officer, past agent or past employee, or the nominee, heirs or legal representatives of any deceased officer, deceased agent or deceased employee of the society, be referred to the Registrar within two years from the date on which the act or omission, with reference to which the dispute arose, took place :

Provided further that a dispute relating to the election of a member or an officer of the committee of a Co-operative Society shall be referred to the Registrar within thirty days from the date of declaration of the result of the election with reference to which the dispute arose :

Provided further that no society shall refer to the Registrar any dispute relating to the election of any of its member to its committee without the previous sanction of Government and no amount shall be spent out of the funds of such society for the purpose of such dispute without the previous sanction of the Government.

(3) Where on receipt of a reference under sub-rule (1) the Registrar decides under clause (c) of sub-section (2) of Section 71 to refer it for disposal by arbitration, the reference shall be made to one arbitrator appointed by the Registrar.

(4) (a) The Registrar, the Arbitrator, or other person deciding the dispute shall, after service of summons on the parties concerned, in a manner prescribed by these rules, record a brief note of the evidence of the parties and witnesses who attend and upon the evidence so recorded, and after consideration of any documentary evidence produced by the parties, shall give a decision or award, as the case may be, in accordance with justice, equity and good conscience.

(b) The decision or award given shall be in writing and pronounced in open court. If a party duly summoned fails to attend, the dispute may be decided *ex parte*. *Ex parte* decisions on awards may, on sufficient cause for non-attendance being shown, be set aside by the Registrar, and the dispute ordered to be re-taken on the file and disposed of :

Provided that no application for setting aside an *ex parte* decision or award shall lie, unless made within thirty days from the date of such decision or award, then the party for whose non-attendance, such decision or award was made, had been duly served in the dispute or in other cases within thirty days from the date of knowledge of such decision or award having been made.

(5) (a) When the Registrar refers a dispute for disposal to an arbitrator under clause (c) of sub-section (1) of Section 71, he shall have power to require the party or parties concerned to deposit in advance such fee as may be determined by him.

(b) The Registrar, Arbitrator, or other persons deciding a dispute under Section 71 shall have power to order the expenses incurred in determining such dispute to be paid either out of the

funds of the society or by such party or parties to the dispute, as he may think fit.

(c) The Registrar, may, in his discretion, remit the whole or any part of the fees collected under clause (a).

(6) (a) Where one of the parties to the dispute is a minor or a person of unsound mind, the Registrar on being satisfied of the fact of the minority or unsoundness of mind, and after notice to the proposed guardian shall appoint a proper person to be guardian for such minor or person of unsound mind. The person so appointed may, for sufficient reasons, be permitted to retire or be removed and a new guardian appointed in his place.

(b) When a necessity arises for the appointment of a guardian to a minor or a person of unsound mind in a dispute before the Arbitrator appointed by the Registrar to decide the dispute, the file may be returned to the Registrar, for the appointment of a guardian.

(7) (a) When an award has been made, the person who made it should cause it to be filed in the office of the Registrar, together with any depositions and documents which have been taken and proved before him and notice of the filing shall be given to the parties.

(b) Where the decision or award involved the payment of money or delivery of grain and such payment is not made within one week or such further time as may be allowed by the Registrar, the Registrar may, on the application of the decree-holder, issue a certificate, as provided for in section 101 of the Act. The certificate shall be in the following form :

Office of the Registrar of Co-operative Societies, Bangalore.

Dispute No.....

of.....

Certified that a decree/decision/award as noted in the enclosure has been passed in the above dispute and the same has not been satisfied (or satisfied in part).

Seal of the Registrar.

Signature of the Registrar.

(8) The following shall be the scale of batta to be paid to witnesses summoned and the same shall be paid by the party at whose instance the witness is summoned :

Witnesses will be divided into three classes :—

Class III.—Persons whose monthly income is below Rs. 100.

Class II.—Persons whose monthly income is Rs. 100 and above ;
and

Class I.—Persons whose monthly income is Rs. 250 and above.

Scale of batta

T.A. for journey to and from place of hearing where the latter is in a different station from that of the witnesses				
Class of witness	By Rail	By Road		Subsistence allowance including expenses per day
		Where there is a public conveyance such as a motor bus plying for hire	Where there is no public conveyance plying for hire	
III Class	Single lowest class.	Single lowest class fare ...	Two annas per mile (12 nP.)	Twelve annas (75 nP.)
II Class	Single II Class	Single II Class or upper class fare where there are only two classes.	Four annas (25 nP.) per mile.	One rupee and fifty naye Paise.
I Class	Single II Class	The authority summoning the witnesses may decide and allow single I Class fare, where he is satisfied that the witness habitually travels by the highest class available in public conveyances. In other cases, single II Class fare only.	Six annas per mile.	Rs. 3

N.B.—When the witness resides in the same station as the place of hearing, it will be discretionary with the authority summoning the witness to allow reasonable hire for conveyance (if one is used) in accordance with the status of the witness instead of the subsistence allowance.

(9) Expenses under sub-clause (8) shall be treated as costs of the dispute and the authority deciding the dispute shall have full power to determine by whom or out of what property and to what extent such costs and all other costs incidental to the dispute are to be paid and to give all necessary directions for the purposes aforesaid. Where the authority deciding the dispute directs that any costs shall not follow the event, the authority shall state its reasons in writing.

Interest on cost at any rate not exceeding six per cent per annum may be awarded and such interest shall be added to the costs and shall be recoverable as such.

32. *Mode of service of summons.*—(1) Every summons issued under the Act and these rules shall be in writing, shall be authenticated by the seal, if any, of the officer by whom it is issued and shall be signed by such officer or by any person authorised by him in writing in that behalf. It shall require the person summoned to appear before the said officer at a stated time and place, and shall specify whether his attendance is required as a party to a dispute to answer the claim or as a witness to give evidence or to produce a document or for both purposes, and any particular document the production of which is required shall be described in the summons with reasonable accuracy.

(2) Any person may be summoned to produce a document without being summoned to give evidence; and any person summoned merely to produce document shall be deemed to have complied with the summons, if he causes such document to be produced, instead of attending personally to produce the same.

(3) The service of summons under the Act on any person may be effected in any of the following ways:

- (a) by giving or tendering it to such person; or
- (b) if such person is not found, by leaving it at his last known place of residence or of business or by giving or tendering it to some adult member of his family; or
- (c) if the address of such person is known to the Registrar or other authorised person by sending it to him by registered post prepaid for acknowledgment; or
- (d) if none of the means aforesaid is available, by affixing it in some conspicuous part of his last known place of residence or business.

(4) Where the serving officer delivers or tenders copy of the summons to the person summoned personally or to an agent or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered, to an acknowledgment of service endorsed on the original summons.

(5) The serving officer shall in all cases in which the summons has been served under sub-rule (4) endorse or annex, or cause to be endorsed or annexed, on or to the original summons a return stating the time when and the manner in which summons was served and the name and address of the person, if any, identifying the person served and witnessing the delivery or tender of the summons.

(6) Where the party to be summoned is a public officer or is a servant of a Railway Company or local authority, the officer issuing the summons may, if it appears that the summons may be most

conveniently so served, send it by registered post, prepaid for acknowledgment for service on the party to be summoned, to the head of the office in which he is employed, together with a copy to be retained by the party.

CHAPTER VIII.

WINDING UP AND DISSOLUTION OF CO-OPERATIVE SOCIETIES.

33. Procedure to be adopted by Liquidator.—Where a Liquidator has been appointed under sub-section (1) of section 73, the following procedure shall be adopted :—

(a) The appointment of the Liquidator shall be notified by the Registrar in the official Gazette.

(b) The Liquidator shall, as soon as the order of winding up of the society takes effect, publish by such means as he may think proper, a notice requiring all claims against the society, the winding up of which has been ordered, to be submitted to him, within two months of publication of the notice. All liabilities recorded in the account books of a society shall be deemed *ipso-facto* to have been duly submitted to him under this clause.

(c) The Liquidator shall decide questions of priority arising between claimants and shall draw up a scheme for the payment of their dues.

(d) The Liquidator shall recover all sums and other properties to which the society is entitled and may institute such suits for that purpose or such suits incidental to liquidation proceedings as he may think proper.

(e) The Liquidator may empower any person, by general or special order in writing, to make collections and to grant valid receipts on his behalf.

(f) The liquidator shall, after settling the assets and liabilities of the society, as they stood on the date on which the order of winding up is made, proceed next to determine the contribution to be made by each of its members, past members or by the estates, or nominees, heirs or legal representatives of deceased members or by any officers or former officers respectively to the assets of the society, under clauses (b) and (c) of sub-section (2) of section 74. Should necessity arise, he may also make a subsidiary order regarding such contributions and such order shall be enforceable in the same manner as the original order.

(g) All the funds in the charge of the Liquidator shall be deposited in the Government Treasury or in the Post Office Savings Bank or in a Co-operative Bank or with such other Bank as may be approved by the Registrar and shall stand in his name.

(h) The Registrar shall fix the amount of remuneration, if any, to be paid to the Liquidator. The remuneration shall be included in the cost of liquidation, which shall be payable out of the assets of the society in priority of all other claims.

(i) The liquidator may call for meetings of the members of the society, under liquidation.

(j) The Liquidator shall submit to the Registrar a quarterly report in such form as the Registrar may specify showing the progress made in the liquidation of the society.

(k) The Liquidator shall keep such books and accounts as may from time to time be prescribed by the Registrar who may at any time cause such books and accounts to be audited.

(l) At the conclusion of the liquidation, the Liquidator shall call for a general meeting of the members of the dissolved society at which the Liquidator or any other person authorised by him by special or general order in writing in this behalf, shall summarise the result of his proceedings and shall take a vote as to the disposal of any surplus funds in the manner prescribed in sub-rule (2) of rule 24. The Liquidator shall submit his final report to the Registrar with a copy of the proceedings of the general meeting referred to above and make over to the Registrar all books and registers and accounts, etc., belonging to the society and all books and accounts relating to the liquidation proceedings kept by him.

(m) If any liability cannot be discharged by the Liquidator owing to the whereabouts of the claimants not being known or for any other cause, the amount covered by such undischarged liability may be deposited in a Co-operative Bank and shall be available for meeting the claims of the person or persons concerned.

(n) A Liquidator may, at any time, be removed by the Registrar and he shall on such removal be bound to hand over all the property and documents relating to the society under liquidation to such persons as the Registrar may direct.

(o) All the books and records of a society whose registration has been cancelled and the proceedings of liquidation of a society ordered to be wound up may be destroyed by the Registrar after the expiry of three years from the completion of the liquidation.

CHAPTER IX.

EXECUTION OF AWARDS, DECREES, ORDERS AND DECISIONS.

34. *Application for execution to the recovery officer.*—(1) Every decree-holder requiring execution of a decree under the provisions of clause (c) of section 101, shall apply to the Recovery Officer within whose jurisdiction the judgment-debtor resides or has property and shall deposit the probable cost of execution as may be fixed by such officer.

(2) Every such application shall be made in the form specified by the Registrar and shall be signed by the decree-holder. The decree-holder may indicate whether he wishes to proceed against the immoveable property mortgaged to the decree-holder or other immoveable property or to secure the attachment of moveable property. Where he wishes to proceed against immoveable property, he shall give in the applications such description of the property as is sufficient for its identification. In case such property can be identified by boundaries or numbers in a record of rights, settlement or survey, the specification of such boundaries or numbers and the specification of the judgment-debtor's share or interest in such property to the best of the belief of the decree-holder and so far as he has been able to ascertain, shall be given in the application.

(3) On receipt of such application, the Recovery Officer shall verify the correctness and genuineness of the particulars set forth in the application with the records, if any, in the office of the Registrar and prepare a demand notice, in writing, in duplicate in the form specified by the Registrar, setting forth the name of the judgment-debtor and the amount due and forward it to the Sales Officer. In case the execution is against immoveable property, the amount shall include the expenses, if any, and the batta to be paid to the person who shall serve the demand notice, the time allowed for payment; and in case of non-payment, the particulars of the immoveable properties, if any, to be attached and sold or to be sold without attachment as the case may be:

Provided that where the Recovery Officer is satisfied that a judgment-debtor with intent to defeat or delay the execution proceedings against him is about to dispose of the whole or any portion of his property, the demand notice issued shall not allow any time to the judgment-debtor for payment of the amount due by him and the property of the defaulter shall be attached forthwith.

35. *Procedure in execution.*—(1) Unless the decree-holder has expressed a desire that proceedings should be taken in a particular

order as laid down in sub-rule (2) of rule 34 execution shall ordinarily be taken in the following manner :—

- (i) moveable property of the judgment-debtor shall be first proceeded against; but this shall not preclude the immoveable property being proceeded against simultaneously in case of necessity;
- (ii) if there is no moveable property, or if the sale proceeds of the moveable property or properties attached and sold are insufficient to meet in full the demand of the decree-holder the immoveable property mortgaged to the decree-holder, or other immoveable property belonging to the judgment-debtor may be proceeded against.

36. *Attachment and sale of specific moveable property including crops on land.*—(1) In the attachment and sale of moveable property the following rules shall be observed :—

- (a) The Sale Officer shall after giving previous notice to the decree-holder, proceed to the village where the judgment-debtor resides, or has property to be attached and serve the demand notice issued under sub-rule (3) of rule 34 upon the judgment-debtor, if he is present. If the amount due together with the expenses be not at once paid, the Sale Officer shall make the attachment by seizure or otherwise and shall immediately deliver to the judgment-debtor a list or inventory of the property attached and an intimation of the place, date and hour at which the attached property will be brought to sale, if the amounts due are not paid before such date. If the judgment-debtor is absent, the Sale Officer shall serve the demand notice aforesaid on some adult male member of his family, or on the authorised agent of the judgment-debtor or when such service cannot be effected, shall affix a copy of such demand notice on some conspicuous part of the judgment-debtor's residence. He shall then proceed to make the attachment and shall fix the list or inventory of the property attached on the usual place of residence of the judgment-debtor, endorsing thereon the place where the property may be lodged or kept and an intimation of the place, date and hour of sale.
- (b) After the attachment is made, the Sale Officer may arrange for the custody of the property attached, with the decree-holder or otherwise. If the Sale Officer

requires the decree-holder to undertake the custody of the property he shall be bound to do so and any loss incurred due to his negligence shall be made good by the decree-holder. If the attached property is live-stock, the decree-holder shall be responsible for providing the necessary food therefor. The Sale Officer may, at the instance of the judgment-debtor or of any person claiming an interest in such property, leave it in the village or place where it was attached, in the charge of such judgment-debtor or person, if he enters into a bond in the form specified by the Registrar with one or more sufficient sureties for the production of the property when called for.

- (c) No attachment under clauses (a) or (b) shall be made after sunset and before sunrise.
- (d) The attachment made shall not be excessive, that is to say, the property attached shall be in value as nearly as possible proportionate to the sum due by the judgment-debtor, together with interest and all expenses incidental to the attachment and sale.
- (e) If crops or ungathered products of the land belonging to judgment-debtor are attached, the Sale Officer may cause them to be sold when fit for reaping or gathering, or at his option may cause them to be reaped or gathered in due season and stored in proper place until sold. In the latter case, the expense of reaping or gathering and storing such crops or products shall be defrayed by the owner upon his redeeming the property or from the proceeds of the sale in the event of its being sold.
- (f) The Sale Officer shall not work the bullocks or cattle, or make use of the goods or moveables attached and he shall provide the necessary food for the cattle or live-stock, the expense attending which shall be defrayed by the owner upon his redeeming the property or from the proceeds of the sale in the event of its being sold.
- (g) It shall be lawful for the Sale Officer to force open any stable, cow-house, granery, godown, out-house or other building and he may also enter any dwelling house, the outer door of which may be open and may break open the door of any room in such dwelling house for the purpose of attaching property belonging to a

judgment-debtor and lodged therein, provided always that it shall not be lawful for the officer to break open or enter apartment in such dwelling house appropriated for the zenana or residence of women except as hereinafter provided.

- (h) When the Sale Officer may have reason to suppose that the property of a judgment-debtor is lodged within a dwelling house, the outer door of which may be shut or within any apartments appropriated to women, which by custom or usage are considered private, the Sale Officer shall represent the fact to the Officer in charge of the nearest police station. On such representation the officer-in-charge of the said station shall send a police officer to the spot in the presence of whom the Sale Officer may force open the outer door of such dwelling house, in like manner as he may break open the door of any room within the house, except the zenana. The Sale Officer may also, in the presence of a police officer, after due notice given for the removal of women within a zenana and after furnishing means for their removal in a suitable manner, if they be women of rank who, according to the custom or usage cannot appear in public, enter the zenana apartments for the purpose of attaching the judgment-debtor's property, if any deposited therein, but such property, if found, shall be immediately removed from such apartments after which they shall be left free for occupation as before.

- (i) The Sale Officer shall on the day previous to and on the day of sale, cause proclamation of the time and place of the intended sale to be made by beat of drum in the village in which the judgment-debtor resides and in such other place or places as the Recovery Officer may consider necessary to give due publicity to the sale. No sale shall take place until after the expiration of the period of 15 days from the date on which the sale notice has been served or affixed in the manner prescribed in clause (a):

Provided that where the property seized is subject to speedy and natural decay, or where the expense of keeping it in custody is likely to exceed its value, the Sale Officer may sell it at any time before the expiry of the said period of 15 days unless the amount is sooner paid.

- (j) At the appointed time, the property shall be put up in one or more lots, as the Sale Officer may consider advisable, and shall be disposed of to the highest bidder:

Provided that it shall be open to the Sale Officer to decline to accept the highest bid where the price offered appears to be unduly low or for other reasons. Where the property is sold for more than the amount due, the excess amount, after deducting the interest and the expenses of process and the other charges, shall be paid to the judgment-debtor :

Provided further, that the Recovery Officer or the Sale Officer may, in his discretion adjourn the sale to a specified day and hour recording his reasons for such adjournment. Where a sale is so adjourned for a longer period than 7 days, a fresh proclamation under clause (h) shall be made unless the judgment-debtor consents to waive it.

- (k) The property shall be paid for in cash at the time of sale, or as soon thereafter as the officer holding the sale shall appoint, and the purchaser shall not be permitted to carry away any part of the property until he has paid for it in full. Where the purchaser fails to pay the purchase money, the property shall be resold.
- (l) Where any property which has been attached under these rules has been forcibly or clandestinely removed by any person, the Sale Officer may apply to Magistrate having jurisdiction for restoration of such property. Where the Magistrate is satisfied about the truth of the facts, as alleged in the application he may order forthwith such property to be restored to the Sale Officer.
- (m) Where prior to the sale, the judgment-debtor or any person acting on his behalf or any person claiming an interest in the property attached pays the full amount due including interest, batta and other costs incurred in attaching the property, the Sale Officer shall cancel the order of attachment and release the property forthwith.
- (n) The moveable properties mentioned as exempt from attachment in the proviso to section 60 of the Code of Civil Procedure, 1908 (V of 1908), shall not be liable to attachment or sale under these rules.

37. *Attachment of other moveable property.*—(1) Where the moveable property to be attached is the salary or allowances or wages of an officer or servant of Government or Railway Company or local authority, the Recovery Officer may, on receiving a report from the Sale Officer, order that the amount shall, subject to the provisions of section 60 of the Code of Civil Procedure, 1908 (V of 1908), be withheld from such salary or allowances or wages, either in one payment or by monthly instalments as the said Recovery Officer may direct and upon notice of the order, the Officer or other person whose duty it is to disburse such salary or allowance or wages shall withhold and remit to the Sale Officer the amount due under the order or the monthly instalment, as the case may be.

(2) Where the property to be attached consists of the share or interest of the judgment-debtor in moveable property belonging to him and another as co-owners, the attachment shall be made by a notice to the judgment-debtor, prohibiting him from transferring the share or interest or charging it in any way.

(3) Where the property to be attached is a negotiable instrument not deposited in a Court, nor in the custody of a public officer, the attachment shall be made by actual seizure and the instrument shall be brought to the office of the Recovery Officer ordering the attachment and be held subject to his further orders.

(4) Where the property to be attached is in the custody of any Court or public officer, the attachment shall be made by a notice to such Court or officer requesting that such property and any interest or dividend becoming payable thereon may be held subject to the further orders of the Recovery Officer issuing the notice :

Provided that where such property is in the custody of a Court or Recovery Officer of another district, any question of title or priority arising between the decree-holder and any other person not being the judgment-debtor, claiming to be interested in such property by virtue of any assignment, attachment or otherwise shall be determined by such Court or Recovery Officer, as the case may be.

(5) (a) Where the property to be attached is a decree either for the payment of money or for sale in enforcement of a mortgage or charge, the attachment shall be made, if the decree sought to be attached was passed by the Registrar or by any person to whom a dispute was transferred by the Registrar under section 71 of the Act or by an Arbitrator, then by the order of the Registrar.

(b) Where the Registrar makes an order under clause (a) he shall, on the application of the decree-holder, who has attached

the decree, proceed to execute the attached decree and apply the net proceeds in satisfaction of the decree sought to be executed.

(c) The holder of a decree sought to be executed by the attachment of another decree of the nature specified in clause (a), shall be deemed to be the representative of the holder of the attached decree and to be entitled to execute such attached decree in any manner, for the holder thereof.

(d) Where the property to be attached in execution of a decree is a decree other than a decree of the nature referred to in clause (a), the attachment shall be made by the issue of a notice by the Recovery Officer to the holder of such decree, prohibiting him from transferring or charging the same in any way.

(e) The holder of a decree attached under this sub-rule, shall give the Recovery Officer executing the decree such information and aid as may reasonably be required.

(f) On the application of the holder of a decree sought to be executed by the attachment of another decree, the Recovery Officer making an order of attachment under this sub-rule shall give notice of such order to the judgement-debtor bound by the decree-attached ; and no payment or adjustment of the attached decree made by the judgement-debtor in contravention of such order after receipt of notice thereof, either through the said Recovery Officer or otherwise, shall be recognised so long as the attachment remains in force.

(6) Where the moveable property to be attached is—

- (a) a debt due to the judgment-debtor in question,
- (b) a share in the capital of a corporation or a deposit invested therein, or
- (c) other moveable property not in the possession of the defaulter, except property deposited in or in the custody of any Civil Court, the attachment shall be made by a written order signed by the Recovery Officer prohibiting—
 - (i) in the case of a debt, the creditor from recovering the debt and the debtor from making payment thereof ;
 - (ii) in the case of a share or deposit, the person in whose name the share or the deposit may be standing, from transferring the share or deposit or receiving any dividend or interest thereon ; and
 - (iii) in the case of any other moveable property except aforesaid, the person in possession of it from giving

it over to the judgment-debtor. A copy of such order shall be sent in the case of the debt to the debtor, in the case of the share or deposit to the proper officer of the corporation and in the case of the other moveable property except property deposited in or in the custody of a Civil Court, to the person in possession of such property. As soon as the debt referred to in clause (a) or the deposit referred to in clause (b) mature, the Recovery Officer may direct the person concerned to pay the amount to him. Where the share referred to in clause (b) is not withdrawable the said Recovery Officer shall arrange for its sale through a broker. Where the share is withdrawable, its value shall be paid to the said Recovery Officer or to the party referred to in clause (c) and the person concerned shall place it in the hands of the said Recovery Officer, as it becomes deliverable to the defaulter.

38. Attachment and sale of immoveable property.—(1) Immoveable property shall not be sold in execution of a decree unless such property has been previously attached :

Provided that where the decree has been obtained on the basis of a mortgage of such property it shall not be necessary to attach it.

(2) In the attachment and sale or sale without attachment of immoveable property, the following rules shall be observed :—

(a) The Sale Officer shall serve or cause to be served a copy of the demand notice issued under sub-rule (3) of rule 34 upon the judgment-debtor or, if he is not available, upon some adult male member of his family or upon his authorised agent, or, if such service is not possible, shall affix a copy thereof on some conspicuous part of the immoveable property about to be attached and sold or sold without attachment, as the case may be.

(b) If the judgment-debtor fails to pay the amount specified in the demand notice within the time allowed, or, if no time is allowed, immediately, the Sale Officer shall proceed to attach and sell, or sell without attachment, as the case may be, the immoveable property specified in the demand notice.

- (c) Where attachment is required before sale, the sale officer shall cause a notice of attachment to be served on the judgment-debtor personally or on an adult male member of his family, or on his authorised agent. Where such service is not possible, the notice shall be affixed in some conspicuous part of the judgment-debtor's last known place of residence. The fact of attachment shall also be proclaimed by beat of drum or other customary mode at some place on or adjacent to the property attached, and at such other place or places as the Recovery Officer may consider necessary to give due publicity to the sale. The attachment notice shall set forth that, unless the amount due with interest and expenses be paid within the date therein mentioned, the property will be brought to sale. A copy of such notice shall be sent to the decree-holder. Where the Recovery Officer so directs the attachment shall also be notified in the official Gazette.
- (d) Proclamation of sale shall be published by affixing a notice in the office of the Recovery Officer and in the Taluk Office at least thirty days before the date fixed for the sale. It shall also be published by beat of drum in the village on two consecutive days previous to the date of sale and on the day of sale prior to the commencement of the sale. Such proclamation shall, where attachment is required before sale, be made after the attachment has been effected. Notice shall also be given to the decree-holder and the judgment-debtor. The proclamation shall state the time and place of sale and specify as fairly and accurately as possible—
- (i) the property to be sold.
 - (ii) any encumbrance to which the property is liable,
 - (iii) the amount for the recovery of which sale is ordered, and
 - (iv) every other matter which the sale officer considers material for a purchaser to know in order to judge the nature and value of the property.
- (e) When any immoveable property is sold under these rules, the sale shall be subject to the prior encumbrances on the property, if any. The decree-holder shall, when the amount for the realisation of which the sale is held exceeds Rs. 100, furnish to the Sale Officer within such

time as may be fixed by him or by the Recovery Officer, an encumbrance certificate from the Registration Department for the period of not less than twelve years prior to the date of attachment of the property sought to be sold, or in cases falling under the proviso to sub-rule (1) prior to the date of the application for execution. The time for the production of the encumbrance certificate may be extended at the discretion of the Sale Officer or the Recovery Officer as the case may be:

Provided that in case where an encumbrance certificate is not obtainable owing to the destruction of the connected records, an affidavit from the village patwari (shambhogue) in regard to the encumbrances known to him supported by a certificate from the Registration Department that the encumbrance certificate cannot be granted owing to the destruction of the connected records, shall be accepted in the place of an encumbrance certificate.

- (f) The sale shall be by public auction to the highest bidder, provided that it shall be open to the Sale Officer to decline to accept the highest bid where the price offered appears to be unduly low or for other reasons and provided also that the Recovery Officer or the Sale Officer may, in his discretion, adjourn the sale to a specified day and hour, recording his reasons for such adjournment. Where a sale is so adjourned to a longer period than 7 days, a fresh proclamation under clause (d) shall be made, unless the judgment-debtor consents in writing to waive it.
- (g) The sale shall be after the expiry of not less than 30 days calculated from the date on which notice of the proclamation was affixed in the office of the Recovery Officer. The time and place of sale shall be fixed by the Recovery Officer and the place of sale shall be the village where the property to be sold is situated or such adjoining prominent place of public resort as may be fixed by the said Recovery Officer.
- (h) A sum of money equal to 15 per cent of the price for which the immoveable property is purchased in the auction shall be paid by the purchaser to the sale Officer at the time of purchase, and in default of such deposit, the property shall forthwith be resold:

Provided that, where the decree-holder is the purchaser and is entitled to set off the purchase money under clause (1) the Sale Officer shall dispense with the requirements of this rule.

- (i) The remainder of the purchase money and the amount required for the general stamp for the sale certificate shall be paid within 15 days from the date of sale :

Provided that the time for payment of the cost of the stamp may for good and sufficient reasons, be extended at the discretion of the Recovery Officer up to 30 days from the date of sale :

Provided further that in calculating the amounts to be paid under this clause, the purchaser shall have the advantage of any set off to which he may be entitled under clause (1).

- (j) In default of payment of the remainder of the purchase money, within the period mentioned in clause (i), the deposit, may, if the Recovery Officer thinks fit, after defraying the expenses of the sale, be forfeited to the Government and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold.

- (k) Every resale of immoveable property in default of payment of the amounts mentioned in clause (i) within the period allowed for such payment, shall be made after the issue of a fresh proclamation in the manner and for the period therein before prescribed for the sale.

- (l) Where a decree-holder purchases the property, the purchase money and the amount due on the decree shall be set off against one another, and the Sale Officer shall enter up satisfaction of the decree in whole or in part, accordingly.

(3) Where prior to the sale, the judgment-debtor, or any person acting on his behalf or any person claiming an interest in the property sought to be sold tenders payment of the full amount due together with interest, batta and other expenses incurred in bringing the property to sale, including the expenses of attachment, if any, the Sale Officer shall forthwith release the property after cancelling where the property has been attached, the order of attachment.

(4) (a) Where immoveable property has been sold, any person either owning such property or holding an interest therein

by virtue of a title acquired before such sale may apply to have the sale set aside on his depositing with the Recovery Officer :

- (i) For payment to the purchaser a sum equal to 5 per cent of the purchase money, and
- (ii) for payment to the decree-holder the amount of arrears specified in the proclamation of sale as that for the recovery of which the sale was ordered together with interest thereon and the expenses of attachment, if any, and sale and other costs due in respect of such amount, less amount which may since the date of such proclamation have been received by the decree-holder.

(b) If such deposit and application are made within 30 days from the date of sale, the Recovery Officer shall pass an order setting aside the sale and shall repay to the purchaser the purchase money so far as it has been deposited together with the 5 per cent deposited by the applicant :

Provided that, if more persons than one have made deposit and application under this sub-rule, the application of the first depositor to the Recovery Officer shall be accepted.

(c) If a person applies under sub-rule (5) to set aside the sale of an immoveable property, he shall not be entitled to make an application under this sub-rule.

(5) (a) At any time within 30 days from the date of the sale of an immoveable property, the decree-holder or any person entitled to share in a rateable distribution of the assets or whose interests are affected by the sale, may apply to the Recovery Officer to set aside the sale on the ground of a material irregularity or mistake or fraud in publishing or conducting it :

Provided that no sale shall be set aside on the ground of irregularity or mistake or fraud unless the said Recovery Officer is satisfied that the applicant has sustained substantial injury by reason of such irregularity, mistake or fraud.

(b) If the application be allowed, the said Recovery Officer shall set aside the sale and may direct a fresh one.

(6) (a) On the expiration of thirty days from the date of sale, if no application to have the sale set aside, either under sub-rule (4) or sub-rule (5) is made or if such application has been made and is rejected, the said Recovery Officer shall make an order confirming the sale :

Provided that if he shall have reason to think that the sale ought to be set aside notwithstanding that no such application has

been made or on grounds other than those alleged in any application which has been made and rejected, he may, after recording his reasons in writing, set aside the sale.

(b) Whenever the sale of any immoveable property is not confirmed or is set aside, the deposit or the purchase money, as the case may be, shall be returned to the purchaser.

(7) On the confirmation of a sale under this rule, the Recovery Officer shall grant a certificate of sale bearing his seal and signature to the purchaser, and such certificate shall state the property sold and the name of the purchaser, and it shall be conclusive evidence of the fact of the sale to such purchaser.

39. *Effect of an attachment on private alienation, etc.*—Where an attachment has been made under these rules, any private transfer or delivery of the property attached or of any interest therein and any payment to the judgment-debtor of any debt, dividend or other moneys contrary to such attachment, shall be void as against all claims enforceable under the attachment.

Explanation.—For the purpose of this sub-rule, claims enforceable under an attachment include claims for the rateable distribution of assets under sub-rule 44.

40. *Batta, costs and receipts for payments made.*—(1) Persons employed in serving notices or other processes under these rules shall be entitled to batta at such rates as may from time to time be fixed by the Recovery Officer.

(2) Where the cost and charges incurred in connection with the attachment and sale of moveable property or the attachment and sale or sale without attachment of immoveable property under this rule, exceeds the amount of the cost deposited by the decree-holder under sub-rule (1) of rule 34, such excess shall be deducted from the sale proceeds of the property sold or the moneys paid by the judgment-debtor as the case may be, and the balance shall be made available to the decree-holder.

(3) Every person making a payment to the Sale Officer or other officer empowered by the Recovery Officer in that behalf, towards any money due for the recovery of which application has been made under these rules, shall be entitled to a receipt for the amount, signed by such officer; such receipt shall state the name of the person making the payment and the subject-matter in respect of which the payment is made.

41. *Investigation of claims to property attached.*—(1) Where any claim is preferred to or any objection is made to the attachment,

of, any property attached under these rules, on the ground that such property is not liable to such attachment, the Sale Officer shall investigate the claim or objection and make an order either rejecting the claim or allowing the claim and to that extent raising the attachment made:

Provided that the Sale Officer may refuse to investigate the claim if he considers that the claim or objection is frivolous or made on or after the date fixed for sale.

(2) Where the property to which the claim or objection relates has been advertised for sale, the Sale Officer may postpone the sale pending the investigation of the claim or objection.

(3) Where a claim or an objection is preferred the party against whom an order is made may institute a suit within six months from the date of the order to establish the right which he claims to the property in dispute, but subject to the result of such suit, if any, the order shall be conclusive.

42. Loss caused by re-sale due to default by purchaser at first sale.—(1) Any deficiency of price, which may happen on a re-sale held, under clause (k) of sub-rule (1) of rule 36 or clause (h) and (k) of sub-rule (2) of rule 38, by reason of the purchaser's default, and all expenses attending such re-sale shall be certified by the Sale Officer to the Recovery Officer and shall, at the instance of either the decree-holder or the judgment-debtor be recoverable from the defaulting purchaser. The costs, if any, incidental to such recovery shall also be borne by the defaulting purchaser.

(2) Where the property is on second sale, sold for a higher price than the first sale, the defaulting purchaser at the first sale, shall have no claim to the difference or increase.

43. Dismissal of application for execution for default of decree-holder.—Where any property has been attached in execution of a decree, but by reason of the decree-holder's default, the Sale Officer or Recovery Officer is unable to proceed further with the application for execution such officer shall either dismiss the application or for any sufficient reason adjourn the proceedings to a future date. Upon the dismissal of such application, the attachment shall cease.

44. Distribution of assets when there are claims under several decrees.—(1) Where the Sale Officer attaches or has attached under these rules, any property not in the custody of any court, which is already under attachment made in execution of a decree of any Court such Court shall receive and realise such property and shall

determine claims thereto and any objections to the attachment thereof:

Provided that where the property is under attachment in the execution of decrees, of more courts than one, the Court which shall receive or realise such property and shall determine and claim thereto and any objection to the attachment thereof shall be the Court of the highest grade, or where there is no difference in grade between such Courts, the Court under whose decree the property was first attached.

(2) Where assets are held by the Sale Officer and before the receipt of such assets, demand notices in pursuance of applications for execution of decree against the same judgment-debtor have been received from more than one decree-holder and the decree-holders have not obtained satisfaction, the assets after deducting the costs of realisation, shall be rateably distributed by the Sale Officer among all such decree-holders in the manner provided in Section 73 of the Code of Civil Procedure, 1908.

45. *Death of judgment-debtor—Execution against legal representative.*—(1) Where a judgment-debtor dies before the decree has been fully satisfied, an application under sub-rule (1) of rule 34 may be made or continued against the legal representative of the deceased and thereupon all the provisions of this Chapter shall, save as otherwise provided in this rule, apply as if such legal representative were the judgment-debtor:

Provided that a show-cause notice shall be issued to such legal representative and his objections heard, before execution is proceeded against him.

(2) Where the decree is executed against such legal representative, he shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and for the purpose of ascertaining such liability, the Recovery Officer executing the decree may, of his own motion or on the application of the decree-holder, compel such legal representative to produce such accounts as he thinks fit.

46. *Fee for processes issued under these Rules.*—Where, in connection with the proceedings on an application under Section 100 of the Act, any person requires the issue of any process or objects to any process issued or objects to any order passed, he shall pay such fee, as may be specified by the Registrar in this behalf.

47. Mode of making attachment before judgment.—(1) Attachment of property under Section 103 of the Act, shall be made in the manner provided in rules 36, 37 and 38.

(2) Where a claim is preferred to property attached under sub-rule (1), such claim shall be investigated in the manner and by the authority specified in rule 41 ;

(3) Where an attachment of any property is made under sub-rule (1), the Recovery Officer shall order the attachment to be withdrawn ;

(a) when the party concerned furnishes the security required, together with security for the cost of the attachment ;

(b) when the liquidator determines under clause (b) of sub-section (2) of Section 74 of the Act that no contribution is payable by the party concerned ; or

(c) when the Registrar passes an order under sub-section (1) of Section 69 that the party concerned need not repay or restore any money or property or contribute any sum to the assets of the society by way of compensation or ;

(d) when the dispute referred to in sub-section (1) of Section 71 has been decided against the party at whose instance the attachment was made.

(4) Attachment made under sub-rule (1) shall not affect the rights existing prior to the attachment, of persons not parties to the proceedings in connection with which the attachment was made, nor bar any person holding a decree against the person whose property is attached from applying for the sale of the property under attachment in execution of such decree.

(5) Where property is under attachment by virtue of the provisions of this rule and a decree is subsequently passed against the person whose property is attached, it shall not be necessary upon an application for execution of such decree to apply for re-attachment of the property.

48. Procedure for distraint and sale of produce including standing crops on property mortgaged to a Land Mortgage Bank.—(1) On receipt of an application from the Committee of a Land Mortgage Bank under Section 88, the Registrar may, after satisfying himself that the instalment or any part of such instalment has remained unpaid for more than one month from the date on which it fell due, and that the application has been made within twelve months from the date on which the instalment fell due, make an order for the

distrain of a sufficient part of the produce of the mortgaged land including the standing crops thereon.

(2) On the making of an order under sub-rule (1) the Registrar shall send a copy of such order to the Sale Officer for effecting the distrain ordered, whereupon the Sale Officer shall proceed in the manner provided for in rule 36 for attachment and sale of specific moveable property so far as such provisions apply to distrain and sale of the produce of land including standing crops.

49. *Sale of mortgaged property under Section 89.*—(a) The procedure prescribed in rule 38 for sale without attachment of immoveable property shall, to the extent necessary, be applicable to a sale of mortgaged property under Section 89.

(b) The provision of rule 42 shall also apply to such sales.

CHAPTER X.

MISCELLANEOUS.

50. *Maintenance of register of names, etc., of Co-operative Societies.*—The Registrar shall maintain.—(1) a register of the names and addresses of all Co-operative Societies registered under the Act, and

(2) a record of the bye-laws of each such Co-operative Society, with all subsequent amendments thereto arranged in the order in which the amendments are registered.

51. *Accounts and other books to be maintained by societies.*—A Co-operative Society shall keep such account books and registers in connection with the business of the society, as the Registrar may, from time to time, require.

52. *Power of Registrar to direct accounts and books to be written up.*—The Registrar may, by order in writing, direct any Co-operative Society to get any or all the accounts and books required to be kept by it under rule 51 written up to such date, in such form and within such time as he may direct. In case of failure by any society to do so, the Registrar may depute an officer subordinate to him or authorise any other person to write up the accounts and books. In such cases, it shall be competent for the Registrar to determine with reference to the time involved in the work and the emoluments of the officer deputed or other person authorised, the charges which

the society concerned should pay to the State Government or the person authorised, as the case may be and to direct its recovery from the society.

53. *Statements and Returns to be furnished by Societies.*—(1) Every Co-operative Society shall prepare for each Co-operative year in such form as may be specified by the Registrar—

- (a) a statement showing the receipts and disbursements for the year,
- (b) a profit and loss account,
- (c) a balance sheet, and
- (d) such other statements or returns as may be specified by the Registrar.

(2) Every Co-operative Society shall submit to the Registrar annually, within such time as he may direct a copy of the statements specified in sub-rule (1). After the Registrar or auditor has verified the statements and granted his audit certificate, the society shall publish the audit certificate and such of the prescribed statements as he may direct in the manner specified by him and the audit certificate shall so far as practicable be granted within one year from the date of receipt of the statements specified in sub-rule (1).

(3) Every Co-operative Society shall, in addition to the annual statements specified in sub-rule (1) also submit to the Registrar any statement or return in such form, within such time, and for such period as the Registrar may specify.

(4) In case of failure by any society to submit any statement or return specified in sub-rule (1) or (3) within the time directed by him, the Registrar may depute an officer to prepare the necessary statement or return. In such cases, it shall be competent for the Registrar to determine, with reference to the time involved in the work and the emoluments of the officer deputed to do it, the charges which the society concerned should pay to the State Government and to direct its recovery from the society.

(5) Every Co-operative Society shall prepare a list of its members as on the last day of each Co-operative year. The list of members shall be revised fourteen days prior to the date of the meeting fixed for the election of the committee of the society and shall include the members admitted and exclude the members removed during the period commencing from the date when the list was last revised and ending with the date of the revision of the list.

54. *Certifying copies of entries in books.*—(1) For the purpose specified in section 123 a copy of an entry in the books of a Co-operative Society regularly kept in the course of a business shall be certified :—

(a) by the Chairman or Secretary of the society and shall also bear the society's seal, or

(b) by the Liquidator where an order has been passed under Section 73, appointing a Liquidator of the society.

(2) The charges to be levied for the supply of such certified copies shall not exceed the amounts specified below :—

Application for registration of a society	..	0-25 nP.
Byelaws of registered societies	..	0-15 nP. per folio.
Amendment of byelaws of a registered society	..	0-25 nP.
Certificates of Registration	..	0-25 nP.
Orders for cancellation of the registration of a society		0-25 nP.
Audit memorandum of a registered society	..	0-15 nP. per folio.
Annual balance sheet	..	0-25 nP.

55. *Restrictions on persons appearing as legal practitioners.*—

(1) In proceedings before the Registrar, the Arbitrators or any other person deciding a dispute or in proceedings in appeals before the Registrar, or the State Government, a legal practitioner shall not be entitled to appear to represent any party ; but the Registrar or any other authority deciding a dispute or hearing an appeal may permit such appearance in special cases.

(2) Any officer of a Co-operative Society who appears as a legal practitioner :—

(i) against such society or against any other Co-operative Society, which is a member of the former society ; or

(ii) (otherwise than in an honorary capacity) on behalf of such society or on behalf of such other society, which is a member of the former society,

shall be deemed to have vacated his office in the society: